

F O R M S
OF
PRACTICAL PROCEEDINGS,
IN THE
COURTS OF KING'S BENCH,
COMMON PLEAS,
AND
EXCHEQUER OF PLEAS.

THE FOURTH EDITION,
CORRECTED, AND ENLARGED.

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INTRODUCTION.

IN conducting a suit at law, there are two things to be principally attended to by the practitioner ; first, what is to be done ; and secondly, the time and manner of doing it : And with a view to these objects, it will be found that an adherence to certain established forms is constantly necessary. These, which are denominated *practical forms*, chiefly consist of writs and returns, entries, rules of court, summonses and orders, affidavits, notices, and demands.

Writs are original or judicial : Original writs issue out of Chancery, returnable in the King's Bench or Common Pleas ; and are calculated for the *commencement or removal* of actions. Original writs for the *commencement* of actions in the superior courts, are the *præcipe quod reddat*, in account, annuity, debt, and detinue ; the *præcipe quod teneat*, in covenant ; and the *pone*, or *si te fecerit securum*, in *assumpsit*, case, trespass, and ejectment ; to which may be added, the *scire facias* to repeal letters patent. In the county court, actions are sometimes commenced by writ of *justicies*, or *replevin* : And causes are removed from inferior courts, into the King's Bench or Common Pleas, *before judgment*, by original writs of *pone*, *recordari facias loquelam*, or *accedas ad curiam* ; or *after judgment*, by writ of error, from courts of record, and by writ of *fals. judgment*, from such courts as are not of record. An original writ of *certiorari* is also sometimes used for the removal of causes from inferior courts of record into Chan-

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cery; from whence they are sent by *mittimus*, to the King's Bench or Common Pleas.

Judicial writs issue out of the court in which the action is depending; and are of a *civil* or *criminal* nature: The former are either *mesne*, that is, such as are issued between the commencement and termination of the suit; or *final*, which are issued after judgment, to obtain execution, or for other purposes. *Mesne* process, commonly so called, is used for bringing the defendant into court, by summons, attachment, or *distringas*, or by *capias ad respondendum*, and process of outlawry, in actions commenced by *original writ*, in the King's Bench or Common Pleas; by bill of *Middlesex*, *intitatus*, or *alias* or *pluries capias*, in the King's Bench; by *capias quare clausum frangit*, in the Common Pleas; or by *venire facias ad respondendum*, *quo minus*, or *subpœna ad respondendum*, in the Exchequer. In actions at the suit of *attornies* and officers of the court, the defendant is brought in by attachment of privilege; and in actions against *peers*, and *members* of the House of Commons, by summons or attachment, and *distringas*.

Under the head of *mesne* process, may also be classed the writ of *inquiry*, for assessing damages on a judgment by default; the process for convening the jury on a trial, commonly called the jury-process, consisting of the *venire facias*, and of the *distringas* in the King's Bench and Exchequer, or *habeas corpora juratorum* in the Common Pleas; the *subpœna ad testificandum*, for compelling the attendance of witnesses; and the *mittimus*, for sending the record for trial into a county-palatine. There are also certain forms *dependant* upon *mesne* process, for bringing the defendant into court; such as the sheriff's *warrant* to summon or attach the defendant, or distrain his goods, on process by *original writ*, or to arrest him, on process against his person; the sheriff's *mandate* to
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the bailiff of a liberty, when the defendant resides within a peculiar jurisdiction; or the writ issued by the superior officer of a county-palatine, directed to the sheriff: to which may be added the *bail-bond*, taken by the sheriff upon an arrest, and the *assignment* of it to the plaintiff.

Final process is either by *feri facias*, against the goods of the defendant; by *levari facias*, against his goods, and the profits of his lands; by *elegit*, against his goods, and a moiety of his lands; by *extent*, which is 1. against his lands only, upon a judgment in *debt* against an heir, on the obligation of his ancestor; 2. against his lands and goods, on a writ of *diem clausit extremum*, or *statute-merchant*; and 3. against his body, lands and goods, on an *extent* in *chief* or in *aid*, or on a *statute staple*, or *recognizance* in nature of a *statute-staple*; or by *capias ad satisfaciendum*, against the person of the defendant: And to this head may also be referred the writ of *seire facias*, for having execution on a *recognizance* or *judgment*. It should also be observed, that causes may be removed from inferior courts, by a *judicial* as well as an *original* writ of *certiorari*, or by *habeas corpus*; and remanded by *procedendo*. Of a *criminal* nature is the writ of *attachment*, which issues for a contempt of the court.

Writs are in general obtained as a matter of course, by applying for them, with a *præcipe* or note of instructions, to the proper officer; and in describing the nature of the cause of action in bailable process, a clause of *ac etiam* is inserted in the bill of *Middlesex* or *latitat*, &c. in the King's Bench, or *capias quare clausum fregit* in the Common Pleas, containing the true cause of action, in addition to the general complaint of trespass. The *direction* of writs, and the *teste* and *return* of them, are treated of in the *Practice*; and when returnable, the sheriff, or other officer to whom they are directed, may be called

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called upon by *rule* to return them; and his *return* is either 'indorsed' on the writ, or contained in a *schedule* annexed thereto, which commonly happens, where he returns an *inquisition* on a writ of inquiry, *elegit*, *extent*, or *capias utlagatum*, or the proceedings are returned from an inferior court. Writs remain in the custody of the sheriff, or other officer to whom they are directed, until a return is called for; and then they are returned and filed, with the proceedings which have been had under them, in the treasury of the Court of King's Bench or Common Pleas, or office of Pleas in the Exchequer.

Entries are either of *record*, or *not* of record. The former, being a memorial of the proceedings and acts of the court, &c. are made on parchment rolls; which, after being docketed and carried in, are bound up, with vellum covers, in one or more parts or bundles for each term, and filed numerically; after which they are deposited in presses, or open stages, appropriated for that purpose, in the treasury of the court of King's Bench and Common Pleas, or office of Pleas in the Exchequer: In the King's Bench, the rolls are preserved in the treasury of that court, from the beginning of the reign of *Henry the sixth* (a); and are divided into *crown* and *plea* rolls: The former contain entries of indictments and informations, with the proceedings thereon; the latter, the proceedings on the *plea* side of the court. There are also, on the *crown* side, rolls of *extreats* of fines and amerciaments, &c. The *plea* rolls are delivered out in blank to the attornies, by a stationer appointed for that purpose by the chief-justice (b); and a skin of parchment is also provided by the stationer, called a *docket*, containing the

(a) The earlier rolls, from the year 1135. to the end of the reign of *Henry the fifth*, are deposited at the Chapter House of *Westminster Abbey*. Jones's Index to Records, pref. xxii.

(b) Notice, T. 12 Geo. II. 1738. K. B.

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numbers for each term, which are delivered out to the *attornies*, by the clerk of the judgments, at the time of entering and docketing the rolls, if of the same term, or otherwise by the clerk of the treasury; and are afterwards marked in common figures by the *attornies*, at the bottom of each roll.

In the Common Pleas, the rolls are preserved in the treasury of the court, from the reign of *Henry* the eighth: The earlier rolls, from 1490, till the year 1509, have been removed to the Chapter House of *Westminster Abbey*. The rolls in this court are *plea* or *common*: The former relate to pleas of *land*, and contain the entries of proceedings in *real* actions, including common recoveries; the latter are confined to the entries in *personal* and *mixed* actions. These rolls are delivered out in blank, in *files* of twenty each (*c*), by the clerk of the *essoins*, after having previously numbered them with numeral letters, in the old court-hand: But there is this difference between the mode of numbering the rolls in the King's Bench, and Common Pleas; that in the former court, there is only one number for each entry, though it be made on several rolls; but in the latter court, each roll is separately numbered. The *plea* rolls in the Common Pleas, are delivered to the clerk of the recoveries, the clerk of the king's silver, and the prothonotaries; the *common* rolls, to the filacers and prothonotaries (*d*). But besides the rolls which are numbered, there are others delivered out unnumbered, to the clerk of the warrants:

(c) As to these files, see R. F. 12 Jac. I. R. M. 1649. C. P.

(d) The recovery rolls, and of deeds inrolled, in the reigns of *Henry* the eighth, *Edward* the sixth, and *Philip* and *Mary*, and also from the first and second, to the twenty fourth and twenty fifth of *Elizabeth*, both inclusive, are bound up and intermixed with the *common* rolls; but since that time, the *plea* and *common* rolls are kept in distinct bundles.

On these are entered the *involments* of deeds, &c. which are filed in the bundle of *plea* rolls; and the *warrants of attorney* in personal and mixed actions, which are filed in the bundle of *common* rolls. There are also *presses* of parchment delivered out unnumbered, to the clerk of the *errors* in the King's Bench and Common Pleas; on which are entered the transcripts of judgments on writs of error.

In the Exchequer of Pleas, the rolls are preserved as far back as the reign of *Edward* the first (e); and are nearly complete from the beginning of the reign of Queen *Elizabeth*. The most ancient of these rolls are kept in a passage behind the court of Exchequer at *Westminster*: The more modern rolls, beginning with the reign of *Charles* the first, are preserved in the office of Clerk of the Pleas, in *Lincoln's Inn*. This court not having jurisdiction of *criminal* matters, or *real* actions, there are no *crown* rolls, as in the King's Bench, nor of pleas of *land*, as in the Common Pleas; but the rolls are denominated *plea* or *common* rolls; and are delivered out by the master of the office of Pleas, to the attornies or clerks in court; but they are not numbered, as in the other courts.

In the King's Bench and Common Pleas, the top or uppermost roll of every bundle is inscribed with the *placita*, or stile of the court, of the term it is made up. In the King's Bench, the *placita* begins thus, "Pleas before our lord the king at *Westminster*, of — term," &c. adding to the *crown* rolls these words, "amongst the pleas of the king;" and is witnessed in the name of the chief-justice. In the Common Pleas, the *placita* of *plea* rolls begins as follows, "Pleas of *land* enrolled at

(e) Burt. Excheq. in pref. and for a particular account of these rolls, see *id.* p. 421, 422, 441, &c.

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Westminster, before (the chief-justice,) and his brethren, justices of his Majesty's court of Common Bench, of — term," &c.; and the first *plea* roll contains the admission of the officers of the court. The *placita* of *common* rolls in that court begins thus, "Pleas, with the warrants of attorney thereof, inrolled," &c.: And there is, in each court, an inscription, on the outside cover of vellum which incloses the bundle, denoting its contents. In the subsequent rolls, the term is written at the top of each entry, in the King's Bench, which begins thus, "As yet of — term," &c. and is witnessed in the names of the chief-justice, and chief-clerk; but in the Common Pleas, the term is not mentioned at the top, but written by the prothonotary's clerk, at the bottom of each roll. Formerly it seems that, in the King's Bench, several entries might have been made on the same roll, in different actions, as is still done in the Common Pleas; but now there is a separate roll in the former court, for each cause. In the Exchequer, the rolls not being numbered, there is a *placita* at the top of each entry, beginning as follows, "Pleas before the barons of the Exchequer at *Westminster*, among the pleas of — term," &c. (f).

Of the *plea* rolls in the King's Bench, the first *twenty*, and of the *common* rolls in the Common Pleas, the first *three hundred*, are supposed to be delivered to the *filacers*; and are thence called *filacers* rolls. On these are entered the proceedings to *outlawry* in the King's Bench, and recognizances of bail in actions by *original*, &c. The entries on the other *plea* and *common* rolls, beginning with number 21, in the King's Bench, and num-

(f) For a more particular account of the rolls and records of the different courts, see the report of a select committee to the House of Commons, on the state of the public records of the kingdom, ordered to be printed in July 1800, p. 112, &c. 119, &c. 253, 4.

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ber CCCI. in the Common Pleas, were formerly made by the clerks of the chief-clerk in the former, and by the clerks of the prothonotaries in the latter court; but now they are made by the attornies. In the Exchequer, there are no *filacers* rolls; and the entries are made by the attornies, or clerks in court.

The *plea* rolls in the King's Bench or Exchequer, and the *common* rolls in the Common Pleas, may be classed, according to the subject matter of them, in the following order: first, the *warrant of attorney* roll; secondly, the *process* roll; thirdly, the *recognizance* roll; fourthly, the *imparlance* roll; fifthly, the *plea* or *issue* roll; sixthly, the *judgment* roll; seventhly, the *scire facias* roll; and eighthly, the roll of proceedings on writs of *error* and *false judgment*: to which may be added the rolls of deeds and awards, &c.; though these are not properly *plea* rolls.

In the King's Bench, the course of the court was always to enter the *warrants of attorney* on a particular roll for that purpose; till the time of *Wright* chief-justice, who altered the ancient course, and caused them to be entered on the top of the respective *plea* rolls to which they belong, as is practised at this day (*h*). In the Common Pleas, they are still entered by the clerk of the warrants on distinct rolls, which are filed in the bundle of *common* rolls in that court.

The entries on the *process* roll are either of the proceedings on a writ of error, or motion to reverse an *outlawry*; or where a writ is sued out to avoid the statute of limitations. The former are made by the *filacer*, who acts as *exigent* and clerk of the *outlawries*, in the King's Bench; the latter, as well as the process of *outlawry*, &c. in the Common Pleas, by the

(*h*) 1 Salk. 88. R. E. 4 Jac. II. K. B.

plaintiff's attorney, or clerk in court: And where a writ is sued out to avoid the statute, the entry is made of the term it is returnable. In the King's Bench, the bill of *Middlesex* or *latitat*, &c. is entered on the roll *in hæc verba*; after which the roll proceeds with an entry of the plaintiff's appearance, the sheriff's return of *non est inventus*, and continuances of the process from term to term, by *vicecomes non misit breve*, to the term of the declaration. In the Common Pleas or Exchequer, the roll merely contains a *recital* of the writ, with an entry of the plaintiff's appearance, and sheriff's return, &c.

The entries on the *recognizance* roll are made by the *filacers*, in actions by *original*, in the King's Bench or Common Pleas; and by the plaintiff's attorney or clerk in court, in other cases: And in the King's Bench by *bill*, and also in the Exchequer, the recognizance of bail to the *action* is entered on the roll, after the bill or declaration, of the term of which it is entitled. This roll first states the bill or declaration; after which the appearance (i) of the defendant is entered, and then the recognizance. In actions by *original*, in the King's Bench or Common Pleas, the roll begins with a *recital* of the writ, upon which the defendant was brought

(i) The appearance of the defendant is triable by the record, on a plea of *comperuit ad diem*, in an action on a bail-bond: *Cro. Eliz.* (466.) And by rule of Mich. 14 Jac. I. reg. 2. C. P. all appearances for defendants, upon writs of *capias*, *alias* and *pluries*, issuing out of that court, ought to be entered of record, or otherwise they are not warranted by the course of the court; neither can the defendant, if he have been arrested, plead *comperuit ad diem*, in discharge of the sheriff's bond taken for his appearance. By that rule, the appearance is required to be entered with the proper filacers: But there does not seem to be any appearance roll, or entry of the defendant's appearance, except the statement of it on the recognizance roll, or on the *imparlance*, *plea*, or *issue* roll, and the entries in the *filacers* books, or books kept by the clerk of the common bails in the King's Bench, which entries however cannot be considered as records.

into court: and in entering a recognizance of bail *in error*, there is a *memorandum* of its being brought into court, and recorded by the chief-justice.

There is no *imparlance* roll in the King's Bench or Exchequer; but in the Common Pleas, where an *original* is actually issued in the first instance, (which however is seldom the case,) or the proceedings are by *bill* filed against an attorney, or member of the House of Commons, if the defendant be entitled to an *imparlance*, it is entered on a roll, called the *imparlance* roll, which is made up of the term the writ is returnable, or bill filed; and contains an entry of the declaration or bill, and of the defendant's appearance thereto, with the prayer and grant of an *imparlance* (*h*).

The *plea* or *issue* roll is made up by the plaintiff's attorney or clerk in court, of the term issue is joined, in the King's Bench by *bill*, or in the Common Pleas or Exchequer; but in the King's Bench by *original*, it is made up of the term of the declaration: and it is either on an issue in *fact*, or in *law*. In actions by *bill*, in the King's Bench, this roll contains the following particulars: 1. the term of which it is made up; 2. the warrants of attorney, for the plaintiff and defendant; 3. a *memorandum*, stating that on the first or some subsequent day in that term, if the declaration was then delivered, or otherwise in a former term generally, the plaintiff came into court, and exhibited his bill against the defendant, and found pledges for the prosecution of it; 4. a copy of the bill itself, omitting the pledges; 5. the appearance of the defendant, in person, or by attorney or guardian; 6. the plea of the defendant, without an *imparlance*, if it be of the same term with the declaration; and if it be merely the general issue,

(*h*) See further as to the *imparlance* roll, Bac. Abr. tit. *Amendment*, D. 2. Gilb. C. Pr. 42, 3, 4. Boote's suit at law, last ed. p. 72. 91, &c. 1 Wils. 182.

the *similiter* thereto; or if special, the plea and replication, &c. as in the paper-book: But if the plea be of a term subsequent to the declaration, it is preceded by a general entry of an imparlance, to the term of which it is pleaded, beginning thus, "And now at this day, that is to say, on — next after — in this same term, until which day the defendant had leave to imparl to the said bill, and then to answer the same," &c. And by the course of the King's Bench, continuances are never entered until the plea roll is made up, though the declaration was delivered several terms before (l). The issue then concludes, if it be an issue in *fact* triable by the country, with the award of the *venire facias*, or *mittimus* to a county-palatine; or if it be an issue in *fact* triable by the record, by giving a day to inspect, or produce it.

In actions by *original*, in the King's Bench, the *plea or issue* roll begins with the term and warrants of attorney, as in actions by *bill*; and then proceeds with a copy of the declaration, without any *memorandum*; after which it states the appearance of the defendant, and the plea and replication, &c. if of the same term, without an imparlance; but if the plea be of a different term, it is usual to enter imparlances specially, from term to term, between the declaration and plea: But after plea pleaded, though the plaintiff has day to reply for several terms, yet no mention need be made on the roll, of any imparlance or continuance (m).

In the Common Pleas, where an *original writ* is actually issued, or *bill* filed against an attorney or member of the House of Commons, and the defendant imparls to a subsequent term, the *plea or issue* roll begins with an *alias prout patet*, thus, "Elsewhere, as it appears in — term last past,

(l) 1 Salk. 179. 2 Ld. Raym. 372. S. C. Cas. temp. Hardw. 323.

(m) 5 Co. 73. 2 Saund. 1. (2.)

in — roll, it is thus contained ;” after which the *imparlance* roll is copied, and then the plea and replication, &c. : but if, as is more commonly the case, the action is commenced without suing out an original writ, the *plea* or *issue* roll merely contains a copy of the declaration and pleadings, without any *imparlance* or continuance : And should it become necessary to sue out an *original* writ, in consequence of a writ of error after a judgment by default, (which however seldom happens, as the defendant’s attorney commonly undertakes, on taxing costs, not to assign the want of it,) the *original* may be made returnable of the term the *issue* is made up, which will be sufficient to support the proceedings.

In the Exchequer, the *plea* or *issue* roll begins with the *placita* or stile of the court, of the term *issue* is joined ; after which, if it be an *issue* of the same term, it merely contains a transcript of the pleadings, beginning each with a new line, without any *memorandum*, or *imparlance* ; but if it be an *issue* of a different term, the bill or declaration is prefaced with a *memorandum*, stating the term in which it was exhibited ; and there is a general entry of an *imparlance* before the plea ; but there is no occasion for any *imparlance* or continuance between the plea and replication.

On an *issue* in *law*, the *plea* or *issue* roll is made up as on an *issue* in *fact*, substituting the demurrer and joinder, for the plea or replication, &c. ; and concludes with a continuance by *curia advisari vult* (n).

The *judgment* roll, which will next be considered, is either on an *issue* in *fact* or in *law* ; or upon the defendant’s confessing the action, or letting judgment go by default ; or on a

(n) See further as to the *plea* roll, and mode of making up the *issue*, Bac. Abr. tit. *Amendment*, D. 3. Boote’s suit at law, last ed. p. 113, &c.

non-pros, nolle-prosequi, stet processus, or judgment as in case of a nonsuit. On an issue in *fact* or in *law*, the judgment roll is merely a continuance of the proceedings on the *plea* or *issue roll*; and if that roll has been already carried in, the subsequent proceedings must be entered thereon by the clerk of the treasury, in the King's Bench; or whether it has been carried in or not, by the clerk of the judgments, who has the custody of the *postea*, in the Common Pleas. On an issue in *fact* triable by the *country*, if the cause be tried the same term issue is joined, or in the following vacation, the proceedings are continued by an entry of the jury being respited, before the king or his justices, until the return of the *dis-tringas*; at which day, the appearance of the prevailing party is recorded, and an entry made of the *postea*, which contains the verdict of the jury, whether general or special, nonsuit, or demurrer to evidence, &c. But if the cause be not tried the same term issue is joined, or in the following vacation, it is continued to the term in or after which the trial takes place, by *vicecomes non misit breve*. These continuances were formerly entered on separate rolls in the Common Pleas (o); but they are now entered on the judgment roll. After the *postea*, if final judgment be given the same term, it is immediately entered; but if it be not given till a subsequent term, the cause is continued to the term of giving it, by *curia advisari vult*. In a county-palatine, an entry is made of the record being sent, with the *postea* indorsed upon it, by the justices before whom the cause was tried, on a day prefixed to the parties to be in court, to hear judgment.

(o) Gilb. C. P. 81, 2. and see Rast. Ent. tit. *Error*, p. 288. where there is a notable roll in 15 Edw. IV. on which the very number of each roll of continuance is entered at the foot of the judgment.

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On an issue *in fact* triable by the *record*, the *judgment roll* proceeds, after the issue, with an entry of the appearance of the prevailing party, and the finding of the court, that there is or is not such a record as alleged in the pleadings, or that the party alledging has produced, or failed to produce it; upon which the judgment is given. On an issue *in law*, the appearance of both parties is usually recorded; and the judgment is founded on the determination of the court, that the declaration, or other pleading, is or is not sufficient: In either case, if the judgment be not entered the same term issue is joined, the cause is continued in the mean-time, by *curia advisari vult*. On a verdict or nonsuit, the judgment is always *final*; but on an issue of *null tiel record*, or upon demurrer, it is *final* or *interlocutory*, according to the nature of the action; and if only *interlocutory*, the same proceedings are had thereon as on a judgment by default (p).

Where the defendant does not plead to the action, but confesses it, or lets judgment go by default, there is of course no *plea* or *issue roll*; but the record proceeds, after the defendant's appearance, with an entry of the confession or default, and the judgment of the court thereon: And in the King's Bench, this entry is the same, whether the judgment be for want of a plea, or for not rejoining, sur-rebutting, or joining in demurrer, or for not returning the paper-book; but in the Common Pleas, where the pleadings are supposed to be entered of record as they are pleaded, the *judgment roll* states the previous proceedings, and the particular default upon which the judgment is given. If the confession be after plea pleaded, it is called a *cognovit actionem, relicta verificatione*;

(p) See further as to the mode of entering the continuances after issue joined. Gilb. C. P. 79, &c. Doote's suit at law, last ed. p. 174, &c. 6 Mod. 4, 5. 1 Salk. 216. 2 Ld. Raym. 925. S. C. 3 Salk. 454. 2 Ld. Raym. 1043. S. C.

and it sometimes happens, that after letting judgment go by default, the defendant confesses the amount of the damages, to save the expence of executing a writ of inquiry : In these cases, the confession is entered on the return of the *venire facias*, or award of inquiry. The judgment on a *cognovit actionem*, if accompanied with a confession of the amount of the damages, is always *final* ; but by default, it is *final* or *interlocutory*, according to the nature of the action. In *debt*, the judgment by default is *final* ; but in *covenant*, *assumpsit*, *case*, *replevin*, and *trespass*, it is only *interlocutory* : and the judgment roll in that case proceeds with the award of the writ of inquiry of damages, and the sheriff's return thereto, or with the assessment of them, when assessed by the court, as on a bill of exchange or promissory note ; after which final judgment is given. In the King's Bench by *bill*, or in the Common Pleas or Exchequer, judgments by default are entered on a roll of the term of which they are signed ; but in the King's Bench by *original*, they are entered of the term of the declaration : In the Common Pleas, the entries are made by the clerk of the judgments, with whom the writ of inquiry is left for that purpose ; and there is no necessity in that court, for a subsequent continuance between the parties, after judgment by default and writ of inquiry awarded (q) : but in the King's Bench, it is said to be otherwise.

On a *non-pros*, the judgment is entered by the defendant's attorney or clerk in court, of the term in which it is signed : and after stating the previous proceedings, as on a *non-pros* for not declaring, the writ ; for not replying, the declaration and plea ; or for not entering the issue, the whole of the pleadings ; the judgment roll contains an entry of the plaintiff's default, and the judgment of the court thereon. A *nolle*

(q) 11 Co. 6. b. Yelv. 97. 1 Roll. Abr. 456.

prosequi is either that the plaintiff will not further prosecute his action generally, or that he will not prosecute the same as to part of the cause of action, or one of several defendants; and it may be entered in any stage of the proceedings. The *stet processus*, or judgment as in case of a nonsuit, is entered at the foot of the *plea* or *issue* roll, by the clerk of the treasury in the King's Bench, or clerk of the judgments in the Common Pleas.

Incident to and dependant upon the proceedings which have been mentioned, there are others which are only entered occasionally, on the *plea* or *issue* and *judgment* roll. These are, 1. the *continuances*; which are either by *dies datus*, before declaration, by *imparlance*, after declaration and before issue joined, by *vicecomes non misit breve*, after issue and before verdict, and by *curia advisari vult*, after verdict or demurrer: 2. the *suggestions* of the parties; which are either of breaches, on the statute 3 & 9 W. III. c. 11. § 8.; of the death or promotion of the plaintiff or defendant; of the sheriff's being interested, &c. for awarding the *venire facias* out of the common course; for judgment on the *Welch* judicature act; or for costs on a court of conscience act, &c.: 3. the *relicta verificatione*; where the defendant relinquishes his defence, after plea pleaded, and confesses the action: 4. the *unica taxatio*; where the taxation of damages is stayed, after judgment by default against one of several defendants, or on demurrer, until the issue joined between the plaintiff and the other defendants, or the demurrer, is determined: 5. the *remittitur damna*; where damages are remitted by the plaintiff: The above entries are made *before* judgment: Those *after* judgment are, 6. the award of execution, by *fieri facias*, *elegit*, or *capias ad satisfaciendum*, &c. and the sheriff's return thereto, to prevent the necessity of a *scire facias*, or to warrant a *testatum*, or *fieri facias*, or *capias ad satisfaciendum*, for the residue of the debt

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or damages; after part has been levied on a former writ: 7. the *commititur*, or commitment of the defendant in execution: 8. the *satisfaction* of the debt or damages, and costs: and lastly, the proceedings on error *coram nobis*, or on error from the King's Bench to the Exchequer-chamber, or to the House of Lords directly, or after affirmance in the King's Bench, where the proceedings have been remitted.

The *judgment* roll contains the *body* of the record, so called in opposition to its *members* or outbranches (r). *These are, 1. the *original* writ; which is filed with the *custos breviarum*, in the treasury of the King's Bench or Common Pleas: 2. the *bill* against *attornies* and officers of the court; which is filed with the clerk of the declarations in the King's Bench, or prothonotaries in the Common Pleas: 3. the *bill* against *members* of the House of Commons; which is filed with the clerk of the declarations in the King's Bench, or filacers in the Common Pleas: 4. the *bill* against *prisoners* in custody of the marshal, or sheriff, &c. which is filed with the clerk of the declarations in the King's Bench: 5. the *nisi prius* record, in the King's Bench or Common Pleas; which, after the *placita*, contains a transcript of the pleadings, and issues joined between the parties, ending with the *jurata* and *sciendum*, except at the sittings in the King's Bench for *London* or *Middlesex*, where there is no *sciendum*: 6. the *commission* in the Exchequer, for authorizing the trial of a cause at the assizes: 7. the *postea*; which, after being marked by the clerk of the common bails, is delivered, in the King's Bench, to the attorney for the prevailing party; but in the Common Pleas, is left with the clerk of the judgments: 8. the *bill of exceptions*; which may be either tacked to, or separate from the record. The above

* (r) 1 Salk. 270.

are not, properly speaking, *entries*, as they are not entered on the rolls of the courts.

In *scire facias*, the entry on the roll, in the King's Bench, begins with the term and warrants of attorney, which are stated to be "in a plea of *debt* on *scire facias*;" after which it alledges that the king sent to his sheriff of the county wherein the *scire facias* was brought, his writ close in these words, (setting out the writ *verbatim*.) It then states the plaintiff's appearance, and the sheriff's return, which is either *scire feci* or *non est inventus*. In the latter case, an *alias scire facias* is awarded: and at the return of it, the plaintiff's appearance is again stated, with the sheriff's return of *non est inventus*; upon which, if the defendant make default, execution is awarded for the debt or damages, or sum acknowledged: but if the defendant or bail appear, on the return of the first or second *scire facias*, his appearance is entered, with a prayer of execution; after which the pleadings are copied, with or without an imparlance, as in other cases. In the Common Pleas, the entry on the roll begins with a *recital* of the writ; after which it proceeds, as in the King's Bench, with the appearance of the plaintiff, and sheriff's return, &c. And in the latter court, where two writs issue, returnable in different terms, the first must be entered of the term wherein it is returnable; and an award of the second is sufficient, without setting it forth at large (*s*). In the Common Pleas, if there be two writs of *scire facias* returnable in different terms, there must be two rolls, one of the term the first writ was returnable, and the other of the term the second writ is returnable; on one of which rolls the first writ is entered, with the sheriff's return thereto, and an award of the second writ only; and the other roll, which begins with an *alias prout patet*,

contains a copy of the former roll, with the addition of the return to the second writ, and the entry of the judgment of the court.

On a writ of error *coram nobis*, the proceedings, we have seen, are entered on the *same* roll as the original judgment (1) ; but on a writ of error from an inferior court to the Common Pleas, or from the Common Pleas to the King's Bench, the entry is made on *different* rolls, in the court above, entitled of the term the writ of error is returnable ; and begins with the writ of error and return, after which the proceedings in the inferior court, or Common Pleas, are entered, to the end of the final judgment : Then follows the judgment of *non-pros* for not assigning errors, or if they are assigned, the assignment of them ; and if it be of errors in *fact*, the plea and replication are next entered, with the award of the *venire facias* ; or if it be of errors in *law*, there is an entry of the joinder, with a continuance by *curia advisari vult* ; after which the roll proceeds with the finding of the jury, or determination of the court, and judgment of affirmance or reversal. On a writ of error from the King's Bench to the Exchequer-chamber or House of Lords, after the proceedings are remitted into the King's Bench, they are entered at the foot of the original roll in that court ; and if a writ of error be first brought in the Exchequer-chamber, and afterwards in the House of Lords, the proceedings in both are entered after a *remittitur*, on the same roll.

Decds and *awards*, &c. are entered in the bundle of *plea* rolls, in the King's Bench, and docketed under the head of *special memorandums* ; but in the Common Pleas, they are entered by the clerk of the warrants, in the bundle of *pleas of land*.

(1) Cro. Eliz. 155. 291. 1 Ld. Raym. 151. Carth. 365. S. C. Lil. Ent. 220. 232. 463, 4. 490.

The manner of entering the proceedings on the rolls is treated of in the *Practise* (u), and when entered, the rolls should be docketed with the clerk of the judgments in the King's Bench, or prothonotaries in the Common Pleas; after which they should be brought in to the clerk of the treasury in the former court, or to the clerk of the essoins, who delivers them to the treasury keeper in the latter, within the times limited by the rules and practice of the respective courts. Formerly, no roll could have been brought in and filed with a *post terminum*, in the King's Bench, without leave of the court (x); but now a roll may be had in either court, of a preceding term, as a matter of course, by applying to the clerk of the treasury in the King's Bench, or clerk of the essoins in the Common Pleas, on paying a *post terminum*; or if a roll has not been brought in to the treasury in time, it may afterwards be brought in and filed, on paying some small additional fees to the officers of the courts. If the space left at the end of the roll be not sufficient for the subsequent entries, one or more rolls may be added, which are called *riders*, with references at the bottom of the preceding roll.

Entries not of record are called *remembrances*; and are either entered on remembrance rolls, or in books of parchment or paper, kept by the different officers of the courts. Of this description are, 1. the book kept by the master of the King's Bench, or clerk of the warrants in the Common Pleas, wherein are entered, in alphabetical order, the names of the attornies who have been admitted, and have taken out their certificates (y): 2. the remembrance rolls kept by the signer of the

(u) Vol. ii. p. 740, &c. 904, &c.

(x) R. E. 9 W. III. K. B. 1 Salk. 7. 2 Ld. Raym. 850. 6 Mod 191.

(y) Anciently it seems, there were rolls kept of the attornies; but after the stamp acts, that method was disused, and books kept in lieu of them. These books were considered, in the case of *Forster v. Cole*. 1 Str. 76, 7, merely as minutes

the bills of *Middlesex*, or of the writs, in the King's Bench, in which are entered the *præcipes* of bills of *Middlesex*, or *latitats*, &c.: 3. the remembrance rolls and books kept by the *filicers*, in the King's Bench or Common Pleas, in which are entered the *præcipes* of writs, and *common* or *special* appearances by *original*: 4. the parchment books kept by the clerk of the common bails in the King's Bench, wherein he enters alphabetically, by the defendant's surname, the common bails filed in *London*, *Middlesex*, and the *country*, separately, with the days when they were respectively filed: These were formerly entered on parchment rolls; and by a late regulation, he is required to mark the bail-pieces numerically as they are received (z): 5. the books kept at the judges' chambers, wherein are entered abstracts of bail-pieces, exceptions to bail, and undertakings to pay costs on taxation, &c.: 6. the book kept by the clerk of the declarations in the King's Bench office, wherein he makes entries alphabetically, by the plaintiff's surname, of the bills and declarations filed with him: 7. the general issue book, kept by the clerk of the judgments in the King's Bench office; and the book kept at the judges' chambers, wherein are entered general issues in ejectment: 8. the book kept by the clerk of the papers in the King's Bench, wherein he enters special pleas filed with him alphabetically, by the defendant's surname: 9. the prothonotaries rolls, in which are entered *præcipes* taken at bar on common recoveries, the admission of *prochein amis* and guaradians, and the appearances and recognizances of bail on attachments of privilege, &c.: 10. the books kept by the

notaries to make up the record, and as a warrant to the officer for that purpose: but from the evidence given in the case of *Rex v. Crossley*. 2 Esp. Rep. 526, it appears, that when an attorney is admitted, and takes the oaths, he subscribes a roll, which is the original roll of attornies; from whence the names are copied into the above books.

(z) R. E. 30 Geo. HI. K. B. 3 T. R. 660.

prothonotaries, wherein are entered the declarations filed and delivered out in the several causes passing through their office, with the subsequent pleadings between the parties, the money paid into, and taken out of court, the records passed for trial, the entries of issues joined between the parties, interlocutory judgments, and final judgments thereon, writs of inquiry, and execution, &c. : 11. the books kept by the clerk of the rules in the King's Bench, and secondaries in the Common Pleas, wherein are entered all *common* and *special* rules : 12. the court books, kept by the clerk of the papers in the King's Bench, or prothonotaries in the Common Pleas, in which are entered the names of all causes on demurrers, special verdicts, and other matters which are to be argued in court, and of causes to be tried at bar, &c. : 13. the remembrance papers, of records passed by the clerks of *nisi prius* in the King's Bench ; and the cause books kept at the chief-justice's chambers, wherein causes are entered for trial at the sittings in *London* or *Middlesex* : 14. the book kept by the clerk of the judgments in the King's Bench, containing entries on the roll to save the statute of limitations, issues, interlocutory and final judgments, and writs of *scire facias* (a) : 15. the marshal's book, also kept by the clerk of the judgments, wherein are entered surrenders, and *committitures* : 16. the book kept in the prothonotaries office, for docketting judgments : 17. the *docket roll* (b), or *common* docket, of judgments in the Common Pleas : 18. the *docket* books kept by

(a) 5 Esp. Rep. 177. 2 New Rep. C. P. 474.

(b) It appears by the prothonotaries' return to the select committee of the House of Commons on the public records, dated 26th February 1800, that the *docket-rolls*, or dockets of the records at *Westminster*, commence as follows : those of the chief prothonotary, about the third of *Edward VI.* ; those of the second prothonotary, in the first of *Henry VIII.* ; and those of the third prothonotary, in the second of *Queen Elizabeth* : And these dockets are deemed so high an authority, as even to warrant the amendment of the judgment itself. T. Raym. 39. 1 Sid. 50. Cro. Can. 775.

the clerk of the dockets in the King's Bench, by the clerk of the essoins in the Common Pleas, and by the master of the office of Pleas in the Exchequer, containing an alphabetical entry or docket, by the defendants names, of all judgments entered in their respective courts, pursuant to the stat. 4 & 5 W. & M. c. 20. § 2. : 19. the *memorial* of the judgment, which is required to be registered, where the defendant has lands in *Middlesex* or *Yorkshire*, in order to charge them. In the Exchequer, besides the bundles of *rolls*, and files of *bills* and *writs*, which are *records*, there are books of *bails*, *appearances*, *orders*, and *dockets*, which are *not* of record.

Rules of court are common or special : *Common* rules are.

1. such as are given by the master in the King's Bench, and entered with the clerk of the rules, or are given by the clerk of the papers, or clerk of the errors. In the Common Pleas, all rules are given or drawn up by the secondaries, except rules for judgment on writs of *scire facias*, which are given by the prothonotaries ; rules to declare in *replevin*, and to bring in the body, which are given by the filacers ; and rules for better bail in error, or to certify the record, which are given by the clerk of the errors : 2. such as are entered with the clerk of the rules in the King's Bench, or secondaries in the Common Pleas, on a *præcipe* or note of instructions made out by the attornies who apply for them, or on a judge's *fiat*, &c. ; and are not founded on any motion in court, either real or supposed : 3. such as were anciently moved for by the attornies at side-bar, in the King's Bench, and are thence called *side-bar* rules. In the Common Pleas, they are supposed to be moved for by the secondaries at side-bar on the first day of term, and in the Treasury Chamber on other days, and are therefore called in that court, *side-bar* or *treasury* rules : 4. such as are drawn up by the clerk of the rules in the King's Bench, or secondaries in the Common

Pleas,

Pleas, without being moved in court, on producing a motion-paper signed by a counsel or serjeant.

All rules that are applied for to the court, are denominated *special* rules; and they are either *absolute* in the first instance, or only *nisi*, to shew cause. Of the former, some cannot be had without the consent of both parties; and the latter may be considered, as they are moved for on behalf of the *plaintiff* or *defendant*. Rules in general operate on the *proceedings*, by setting aside, staying or amending them; or on the *parties* to the suit, by requiring something to be done by the party applying, or by the opposite party for his benefit, or by the sheriff, or officers of the court, &c. The application to the court for *special* rules, is made by *motion* or *petition*: the former, is sometimes preceded by a *notice*, and is usually founded on an *affidavit* of the circumstances. *Petitions* are also used for other purposes; as to a judge at chambers, for *infants* to be admitted to sue by *prochein ami*, or defend by *guardian*, or for *paupers* to defend in *forma pauperis*; or to the master of the rolls, for an original writ to be issued on a writ of error, after judgment by default, or to amend an original, &c.: and *fiats* are granted thereon for these several purposes.

The rules of the court are not considered as *records*, but only *remembrances* of its proceedings (c); and are filed, with the affidavits in support of them, in the office of the clerk of the rules in the King's Bench, or secondaries in the Common Pleas. In the Exchequer, all rules are given or drawn up by the master.

Summonses and *orders* are issued and made by the judges, and answer to the rules of the court; the former being in na-

(c) 1 Wils. 40.

ture of rules to shew cause, and the latter of rules absolute. In general, they are intended to regulate those less important matters which are not altogether of course, but yet are not of sufficient moment to claim the attention of the court; such as the allowance of further time to plead, &c. There are also certain forms depending on rules of court, or judge's orders; such as *interrogatories* and *depositions* on the former, and *particulars* of the plaintiff's demand, or defendant's set-off, on the latter.

Affidavits are made by the parties to the suit, or their attorneys, &c.; and are calculated to found, or give effect to some proceeding in the course of the cause, or more commonly to obtain, or shew cause against a rule of court, or judge's order; though they are seldom used on applying for, or shewing cause against the latter. Of the former kind are affidavits to hold to bail; for filing common bail, or entering a common appearance; of the truth of pleas in abatement; and of increased costs, upon taxation, &c. Affidavits of the latter kind, or such as are used in court, may be considered as they relate to the proceedings in actions in general, or to particular actions or modes of proceeding, or actions by or against particular persons.

In point of form, they may be considered with reference to their title, contents, and *jurat*. In general, they are sworn in court, or before a judge or baron in town, or commissioner for taking affidavits in the country; or else, in the case of affidavits to hold to bail, before the officer who issues the process, or his deputy: And they are filed, when used in court, with the clerk of the rules in the King's Bench, or secondaries in the Common Pleas; or otherwise, with the judge or officer before whom they are used. Affidavits of the execution of

articles

articles of clerkship, and service under them, are filed with the chief clerk or his deputy in the King's Bench, or clerk of the warrants in the Common Pleas; affidavits to hold to bail, with the officer who issues the process, or his deputy; affidavits of the service of process, with the clerk of the common bails, or filacer; affidavits of the truth of pleas in abatement, with the clerk of the papers, or prothonotaries; and affidavits of increased costs, with the master or prothonotary who taxes them. When an affidavit has been read and filed, it becomes a record of the court, and cannot be taken off the file (*d*).

Notices are of something done, or intended to be done, by the party giving them; such as notices of bail put in, or of an intention to bring an action, or move the court, or proceed to trial, &c.: or of something expected to be done by the other party, as to appear, plead, &c. *Demands* are of something required to be given or done by the opposite party; as of declaration, or plea, or *oyer* and copy of deeds, &c. *Notices* and *demands* pass between the parties, or their attornies, and are not filed or entered of record. There are also certain other acts of the parties, which should here be noticed; such as the *warrant of attorney* to confess judgment, and the *defearance* thereon, *undertakings* of indemnity to the sheriff, or to pay the costs due to an attorney on taxation, &c.

In addition to the above forms, which may be considered as relating to actions in general, there are others which are peculiar to particular actions and modes of proceeding, such as the actions of *replevin* and *ejectment*, and the proceedings in *scire facias*, *error*, and *false judgment*; and others again, which relate to actions by or against particular persons, as *attornies* and *prisoners*: Of the latter kind are *certificates*

of gaolers, and *schedules* on the Lords' act, &c. There are also some forms particularly applicable to the remedies by *distress*, and *arbitration*.

The following collection was originally made by the author, with the assistance of his friend Mr. *Seth Thompson*; and was intended as an *Appendix* to the *Practice* of the court of King's Bench, in personal actions, &c. It was first published in *November* 1799: and in the second edition, which was published in *September* 1804, many considerable alterations and additions were made, and two new chapters inserted, containing the forms in *replevin* and *ejectment*. In *replevin*, it will be seen, the forms are divided into six parts, as they relate to the following subjects: 1. the making and conducting of the distress, upon which the replevin is founded; 2. the authority for, and granting the replevin, by *writ* or *plaint*; 3. the proceedings in the court below; 4. the removal of the cause from the inferior court, by *pone*, *certiorari* and *mittimus*, *recordari factas loquelam*, or *accedas ad curiam*, and remanding it by *procedendo*; 5. the proceedings in the court above, from the declaration to final judgment and execution, inclusive; and 6. the proceedings on the writ of *second deliverance*. In *ejectment*, the forms are arranged in the following order: 1. notices to quit, &c.; 2. proceedings at common law, in case of a vacant possession; 3. proceedings against the casual ejector in other cases, either at common law, or on the statute 4 *Geo.* II. c. 28. where the tenant or his landlord does not appear, and enter into the common rule to confess lease entry and ouster; and 4. proceedings where the tenant or his landlord appears, to final judgment and execution.

In the last edition, published in *March* 1809, many new forms were added, not only of proceedings in the King's Bench, but also in other courts. In the Common Pleas, there were

were some new practical entries, &c.; and in the Exchequer, several forms of proceedings, both on the *plea* and *revenue* sides of the court, never before published: There were also some new precedents in *inferior* courts. Other forms were corrected, particularly those on the statute 8 & 9 W. III. c. 11. § 8.

In the present edition, some alterations have been made in the arrangement of the forms, so as to make them correspond with the last edition of the *Practice*. In particular, the proceedings by *original writ* are in this edition, placed before those by *bill*; and the whole of the proceedings against *prisoners* are brought together, in one chapter: These, as well as the proceedings by and against *attornies*, and for the removal of causes from *inferior* courts, are placed after the *Declaration*, and time for *pleading*. In arranging the proceedings against *prisoners*, the following order is observed: 1. the forms used in actions against them, when in actual custody of the sheriff, &c. previous to the plea; 2. the writ of *habeas corpus*, for removing them into the custody of the *marshal* of the King's Bench, or *warden* of the Fleet prison; 3. the bill and declaration against prisoners in actual custody of the marshal or warden, *previous* to the plea; 4. the proceedings in actions against them, *subsequent* to the plea, in order to charge them in execution, or to discharge them by writ of *supersedeas*; and lastly, the relief they are entitled to under the Lords' act.

In this edition also, the *judgments*, which before were placed together in one chapter, after the proceedings on an issue triable by the country, are distributed and placed in the different chapters to which they relate; as the judgment of *non-pros* for not declaring, replying, or entering the issue, in the chapters of *Declarations*, *Replications*, and *Issues*; the judgments

ments by *cognovit actionem*, *non sum informatus*, and *nil dicit*, in the chapter which treats of those judgments, previous to the writ of inquiry of damages; the judgment of *causatur billa vel breve*, or *respondeat ouster*, in the chapter on pleas in *abatement*; the entries of discontinuance and *nolle prosequi*, in the chapter of *replications*, &c.; the judgments on *demurrer* and *nul tiel record*, previous to the proceedings on issues triable by the country; and those after *verdict* or *consuit*, in their proper place, after those proceedings.

In the preceding editions, the forms were chiefly confined to the court of King's Bench; but the last edition of the principal work having been extended, so as to incorporate the whole of the practice of the court of Common Pleas, it was thought right, in the present edition, to include all the forms in that court, as well as in the King's Bench; and in order to make the work more extensively useful, forms are added in the court of Exchequer: And in the chapter on *arbitrations*, the forms are given of rules of court, and orders of reference, and of awards thereon, as well as on orders of *nisi prius*, and bonds of arbitration.

In making these additions, where the forms are materially different, the whole of them are inserted; but where they only differ in some particulars, they have been altered, so as to adapt them to the different courts. It should still be remembered however, that as the work was originally designed as an *Appendix* to the *Practice* of the court of King's Bench, the forms must be understood as applicable to that court, where there is nothing mentioned to the contrary; and for preventing confusion by the indiscriminate use of an &c. it should be observed, that where it stands for something intended to be inserted, it is included in a *parenthesis*; and where the words to be introduced are not obvious, the page

is referred to where they are to be found. To avoid unnecessary repetition, references are occasionally made to other precedents of the same nature; and throughout the whole of the work, as the subject did not admit of novelty, the greatest attention has been paid to selection and arrangement.

The number of additional forms in the present edition, must necessarily occasion a considerable alteration of the *Index*; and as it was not originally framed for precedents in different courts, a new *Index* has been made, in a more analytical form, wherein it has been endeavoured to arrange the titles under the most obvious heads, distinguishing between those in the different courts. To facilitate research, the same title is sometimes indexed under different heads; and where that, by reason of the multiplicity of titles, would have occasioned too great a prolixity, reference is made from one head to another.

The author cannot conclude, without expressing the obligations he is under to the officers of the courts, and particularly to Mr. *Card*, assistant clerk of the rules, and Mr. *Edge*, clerk of the outer treasury, of the King's Bench, and to Mr. *Griffiths*, one of the secondaries, Mr. *Bremridge*, clerk of the judgments, Mr. *Sherwood*, clerk of the dockets, and Mr. *Jenings*, clerk of the essoins, of the Common Pleas, for their valuable communications, relating to the *rules*, and *rolls* of their respective courts, &c. He is also happy in this opportunity of acknowledging the assistance he has derived from Mr. *Kenrick Collett*, one of the clerks in court of the Exchequer, to whose experience and obliging disposition he is indebted, for much important information respecting the practice, and for many useful forms in that court.

TEMPLE,

Nov. 1, 1811.

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ERRATA.

- Page 82 § 85. in margin, for *sale* read *increase*.
 127. line 3. for 57 read 28.
 131. § 16. line 5, the like.
 146. § 8. line 2. insert the further time to plead.
 178. § 63 at the beginning, for 19 read 173.
 240. line 3. for 57 read 28.
 244. § 7. last line, for 245 read 243.
 257. § 1. in margin, line 3. *dele* "in K. B."
 2. in margin, add "in K. B."
Index, tit. *Affidavits*, line 7. after *taxation*, for 119 read 115.
 Extent, line 31. after *C. P.* for 472 read 471.

FORMS

OF



*PRACTICAL PROCEEDINGS,

&c. &c.

CHAP. I.

Of NOTICES of ACTION, &c.

TO *C. D.* Esquire, one of his majesty's justices of the peace in and for the county of —.

(§ 1.)
Notice of action to a justice, by the party, for false imprisonment.

SIR,

You having, on or about the — day of — last, as one of his majesty's justices of the peace in and for the said county of —, caused me to be apprehended, and unlawfully committed to a certain common gaol or prison called — in and for the same county, and to be there imprisoned, and kept and detained in prison there, without any reasonable or probable cause whatsoever, for a long space of time, to wit, for the space of — then next following; I do therefore, according to the form of the statute in such case made and provided, hereby give you notice, that I shall at or soon after the expiration of one calendar month from the time of your being served with this notice, cause a precept called a bill of *Middlesex*, (or writ of *latitat*, *capias ad respondendum*, or *quo minus*, &c.) to be sued out of his majesty's court of King's Bench (or Common Pleas, or Exchequer) at *Westminster*,

B

against

CHAP. I. against you, at my suit, for the said imprisonment, and shall proceed against you thereupon according to law. Dated this — day of — 18—.

Your's, &c.

A. B. of —.

Indorsement
thereon.

E. F. of — attorney for the within-named A. B.

(12.)
Notice of action
on to a justice,
by the attorney,
for false imprisonment.

To C. D. Esquire, one of his majesty's justices, (&c.)

SIR,

You having, on or about the — day of — last, as one of his majesty's justices of the peace in and for the said county of —, caused A. B. of —, to be apprehended, (&c.); I do therefore, as the attorney of and for the said A. B. in this behalf, according to the form of the statute in such case made and provided, hereby give you notice, that I shall, at or soon after the expiration of one calendar month from the time of your being served with this notice, cause a precept called a bill of *Middlesex*, (&c.) to be sued out of his majesty's court of King's Bench, (&c.) against you, at the suit of the said A. B. for the said imprisonment, and shall proceed against you thereupon according to law. Dated, (&c.)

Your's, &c.

E. F. of —,

Attorney for the said A. B.

(Indorsement as before.)

(3.)
The like, another way, by the party.

To C. D. Esquire, one of his majesty's justices, (&c.)

SIR,

I A. B. of —, do hereby, according to the form of the statute in such case made and provided, give you notice, that I shall, by my attorney Mr. E. F. of —, at or soon after the expiration of one calendar month from the time of your being served with this notice, cause a precept called a bill of *Middlesex*, (&c.) to be sued out of his majesty's court of King's Bench, (&c.) against you, at my suit, and proceed thereupon according to law; for that you the said C. D. on the — day of — in the year of our Lord 18—, with force and arms, &c. caused me to be assaulted, &c. (stating the facts specially, as in a declaration for an assault and false imprisonment, only charging the defendant with having caused them to be committed); and other wrongs to me the said A. B.

NOTICES OF ACTION.

6

A. B. did, to my great damage, and against the peace of our lord the now king. Dated, (&c.) CHAP. I.

Your's, &c.

A. B. of —.

(Indorsement as before.)

To *C. D.* Esquire, one of his majesty's justices, (&c.)

(§ 4.)

SIR,

The like, by
the attorney.

I do hereby, as the attorney of and for *A. B.* of —, according to the form of the statute in such case made and provided, give you notice, that the said *A. B.* will, at or soon after the expiration of one calendar month from the time of your being served with this notice, cause a precept called a bill of *Middlesex*, (&c.) to be sued out of his majesty's court of King's Bench, (&c.) against you, at the suit of him the said *A. B.* and proceed thereupon according to law; for that you the said *C. D.* &c. (stating the facts specially, as in the last); and other wrongs to the said *A. B.* did, to his great damage, and against the peace of our lord the now king. Dated, (&c.)

Your's, &c.

E. F. of —,

Attorney for the said *A. B.*

(Indorsement as before.)

To *C. D.* Esquire, one of his majesty's justices, (&c.)

(§ 5.)

SIR,

The like, for
issuing a war-
rant, on which
the party was
apprehended
and detained
in prison, till
he was released
on a *habeas cor-
pus*, &c.

You having, on or about the — day of — last, as one of his majesty's justices of the peace in and for the said county of —, unlawfully issued your warrant in writing, under your hand and seal, directed to the constable of — in the said county, and to the keeper of the gaol and house of correction at —, thereby commanding the said constable, in his majesty's name, forthwith to convey and deliver into the custody of the said keeper of the said gaol and house of correction, the body of *A. B.* of —, therein mentioned to be charged, &c. (reciting the warrant;) and having, under and by virtue of the said warrant, or otherwise, caused the said *A. B.* to be conveyed and delivered to the keeper of a certain common gaol or prison in —, and to be there unlawfully imprisoned and kept and detained in prison, without any reasonable or probable cause whatsoever, for a long space

CHAP. I. of time, to wit, for the space of — then next following, and until he the said *A. B.* for obtaining his release and discharge from the said imprisonment, was forced and obliged to and did sue out his majesty's writ of *habeas corpus*, by virtue of which said writ he the said *A. B.* was carried and conveyed in custody before the honourable —, one of his majesty's justices of the court of —, and was by the said justice released and discharged from the said imprisonment; whereby the said *A. B.* not only suffered and underwent great pain and anxiety of mind, and was injured in his character and credit, but was also forced and obliged to and did necessarily lay out and expend divers sums of money, in the whole amounting to a large sum of money, to wit, the sum of —*l.* in and about the obtaining of his said release and discharge, and otherwise: I do therefore, as the attorney, &c. (as before, p. 1. with the like indorsement.)

To *C. D.* Esquire, one of his majesty's justices, (&c.)

SIR,

You having, on or about the — day of — last, as one of his majesty's justices of the peace in and for the said county of —, caused *A. B.* of — to be unlawfully convicted in the penalty of —*l.* on the information of *G. H.* and on the oath of *J. K.* and *L. M.* for a supposed offence, in uttering, vending and selling, in *Great Britain*, a certain medicine called —, to *N. O.* of the price and value of —, and subject to the stamp duty of — in and by an act of parliament made and passed in the — year of the reign of his present majesty, the bottle containing the said medicine called — not having any mark or stamp pasted stuck fastened and affixed thereto, marked and stamped with the mark and stamp provided and used pursuant to the said act, by the commissioners appointed to manage the duties charged on stamped vellum parchment and paper, to denote the said duty of —, as in and by the said act is directed and required, contrary to the form of the statute in that case made and provided; although you were not a justice of the peace residing near the place where the said supposed offence was committed, and consequently had no jurisdiction over, or right to hear or determine the same; and you having, notwithstanding such defect of jurisdiction, unlawfully issued a certain

(§ 6.)
The like, if
unlawfully
violin the
ty of selling
medicines with-
out a stamp,
and issuing a
warrant of dis-
tress, under
which his goods
were sold, and
for refusing to
permit an ap-
peal.

certain warrant in writing, under your hand and seal, dated at —, the — day of — last, and directed to — and —, thereby commanding them, jointly and severally, that they, or some or one of them, should forthwith distrain the goods and chattels of the said *A. B.* for satisfying the said sum of —*l.*, and in case the said sum of —*l.* should not be paid within six days next after such distress was made, that then they should make sale of the said goods and chattels so distrained as aforesaid, and out of the money arising from such sale, that they should pay or cause to be paid unto the said *G. H.* the informant, the said sum of —*l.*, to be distributed as therein is mentioned; under which said warrant of distress, the house of the said *A. B.* situate, (&c.) was unlawfully entered, and his goods and chattels therein, of a large value, forcibly taken and detained for the space of —; and you having in the mean time unlawfully refused and neglected to permit an appeal from the said conviction or judgment, or to take security, though tendered, to the amount of the value of the said penalty and forfeiture, together with such costs as should be awarded in case such judgment should be affirmed; and having afterwards caused the said goods and chattels of the said *A. B.* to be sold and disposed of, to his great loss and prejudice: I do therefore, as the attorney, &c. (is before, p. 1. with the like indorsement.)

If the action be brought against a justice, for any thing done under a conviction, that has been quashed, the notice must state that it was done *maliciously*, and without any reasonable or probable cause; and the action must be an action upon the *case*. See the statute 43 Geo. III. c. 141.

To *C. D.* and *E. F.* officers of his majesty's Customs.

You having, on or about the — day of — last, unlawfully seized and taken possession of a certain brig or vessel called —, together with her tackle, apparel, furniture and stores, and certain goods and chattels, to wit, &c. (setting out the goods,) of and belonging to *A. B.* of —, and being of a large value, to wit, of the value of — *l.* and from thence hitherto unlawfully kept and detained the said brig or vessel, and her tackle, apparel, furniture and stores aforesaid, and also the said goods and chattels, and converted

(§ 7.)
The like, to
custom-house
officers, for
seizing a brig,
&c.

CHAR. I. converted and disposed thereof to your own use; I do therefore, as the attorney of and for the said *A. B.* in this behalf, according to the form of the statute in such case made and provided, hereby give you notice, that I shall, at or soon after the expiration of one calendar month from the time of your being served with this notice, cause a precept called a bill of *Middlesex*, (&c.) to be sued out of his majesty's court of King's Bench, (&c.) against you, at the suit of the said *A. B.* for the said trespass, and shall proceed against you thereupon according to law. Dated, (&c.)

Your's, &c.

E. F. of —,

Attorney for the said *A. B.*

(§ 8.)
The like, to
excise officers,
for seizing
goods.

To *C. D.* and *E. F.* officers of his majesty's Excise.

You having, on or about the — day of — last, unlawfully seized, taken, and carried away a large quantity, to wit, two hundred pounds weight of soap, belonging to *A. B.* of —, and being of a large value, to wit, of the value of — *l.* and converted and disposed thereof to your own use; I do therefore, as the attorney, &c. (as before, p. 1.)

(§ 9)
The like, and
other way, for
stopping and
detaining a
horse and cart,
&c.

To *C. D.* and *E. F.* officers of his majesty's Excise,

I do hereby, as the attorney of and for *A. B.* of —, according to the form of the statute in such case made and provided, give you notice, that I shall, at or soon after the expiration of one calendar month from the time of your being served with this notice, cause a precept called a bill of *Middlesex*, (&c.) to be sued out of his majesty's court of King's Bench, (&c.) against you, at the suit of the said *A. B.* and proceed thereupon according to law, for that you the said *C. D.* and *E. F.* on the — day of — last, with force and arms, seized and laid hold of a certain horse of the said *A. B.* of a large price, which was then passing in and along the king's highway, and drawing a certain cart of him the said *A. B.* of a large value, wherein he was then riding and going in and about his lawful and necessary affairs and business; and without the licence or consent, and against the will of the said *A. B.* stopped and detained him, and his said horse and cart, for a long space of time, to wit, for the space

of

of —, during which time he the said *A. B.* not only lost and was deprived of the use and benefit of his said horse and cart, but was hindered and prevented from doing and transacting his lawful and necessary affairs and business: And also for that you the said *C. D.* and *E. F.* on the said — day of — last, with force and arms, seized and took the said horse and cart of the said *A. B.* and kept and detained the same against his will, for another long space of time, to wit, for the space of —, during which time he the said *A. B.* lost and was deprived of the use and benefit of his said horse and cart: And also for that you the said *C. D.* and *E. F.* on the said — day of — last, with force and arms, assaulted, beat, bruised, wounded and ill-treated the said *A. B.* and imprisoned him, and kept and detained him in prison, without any reasonable or probable cause whatsoever, for a long space of time, to wit, for the space of —, contrary to the laws and customs of this realm, and against the will of the said *A. B.* and rent, tore, damaged and spoiled his cloaths, of a large value, which he then had on and wore: And other wrongs to the said *A. B.* did, to his great damage, and against the peace of our lord the now king. Dated, (&c.)

Your's, &c.

E. F. of —,

Attorney for the said *A. B.*

I do hereby, as the attorney of and for *A. B.* of —, according to the form of the statute in such case made and provided, demand of you, the perusal and copy of the warrant, by virtue or under colour whereof you did, on or about the — day of — last, apprehend the said *A. B.* and carry and convey him in custody, to and before *G. H.* esquire, one of his majesty's justices of the peace in and for the county of —, (or, seize take and carry away certain goods and chattels, to wit, (&c.) of the said *A. B.* of a large value, to wit, of the value of — *l.* and convert and dispose thereof to your own use.) Dated, (&c.)

(§ 10.)
Demand on a
constable, of
the perusal
and copy of a
warrant.

Your's, &c.

E. F. of —,

Attorney for the said *A. B.*

To Mr. *C. D.*

I do

CHAP. I. I do hereby, as the attorney of and for *A. B.* of —, according to the form of the statute in such case made and provided, demand of you the perusal and copy of the warrant of commitment and detainer, under which you received into your custody the said *A. B.* on or about the — day of — last, and kept and detained him in custody for the space of — then next following. Dated, (&c.)

(§ 11.)
The like, on a
gaoler.

Your's, &c.

E. F. of —,
Attorney for the said *A. B.*

To Mr. *C. D.*

CHAP. II.

*Of the QUALIFICATION and ADMISSION of ATTORNIES;
and of their PRIVILEGES, &c.*

ARTICLES of Agreement indented, had, made, concluded (§ 1.)
and fully agreed upon, the — day of —, in the — year Articles of clerkship to an attorney and solicitor.
of the reign of our sovereign lord *George* the Third, by the
grace of God of the united kingdom of *Great Britain* and
Ireland king, defender of the faith, and in the year of our
Lord 18— Between *A. B.* of — gentleman, one of the attor-
nies of his majesty's courts of King's Bench and Common
Pleas at *Westminster*, and a solicitor in the high court of
Chancery, of the one part, and *C. D.* of —, and *E. F.* son of
the said *C. D.* of the other part: Witness that the said *E. F.*
of his own free will, and by and with the consent and appro-
bation of the said *C. D.* his father, hath put, placed and
bound himself, and by these presents doth put, place and
bind himself clerk to the said *A. B.* to serve him from the day
of the date hereof, for and during and until the full end and
term of five years from hence next ensuing, and fully to be
complete and ended: And the said *C. D.* doth for himself,
his heirs, executors and administrators, covenant, promise
and agree to and with the said *A. B.* his executors, admin-
istrators and assigns, by these presents, in manner following,
(that is to say); that the said *E. F.* shall and will well and
faithfully serve the said *A. B.* as his clerk, in the profession
of an attorney at law and solicitor in Chancery, from the day
of the date hereof, for and during the said term of five
years: And that he the said *E. F.* shall not, at any time
during the said term of five years, cancel, obliterate, spoil,
destroy, waste, embezzle, spend or make away with any of
the books, papers, writings, monies, stamps, or other pro-
perty of the said *A. B.* his executors, administrators or
assigns, or any of his clients or employers, which shall
be deposited in his hands, or entrusted to his custody
or

CHAC. II. or possession, or to the care, custody or possession of him the said *E. F.*: And that in case he the said *E. F.* shall act contrary to the last-mentioned covenant, or if he the said *A. B.* his executors, administrators or assigns shall sustain or suffer any loss, damage or prejudice, by the misbehaviour or neglect of the said *E. F.* he the said *C. D.* his executors or administrators shall make good and reimburse him the said *A. B.* the amount or value thereof: And further, that he the said *E. F.* shall and will, from time to time, and at all times during the said term of five years, keep the secrets of the said *A. B.* and readily and cheerfully obey and execute his lawful and reasonable commands; and shall not depart, or absent himself from the service or employ of the said *A. B.* at any time during the said term, without his consent first obtained, but shall, from time to time, and at all times during the said term, conduct himself with all due diligence, honesty, sobriety and temperance: And that he the said *C. D.* his executors and administrators shall and will, from time to time, and at all times during the said term of five years, at his and their proper costs, find and provide the said *E. F.* with all and all manner of necessary and becoming apparel, and washing, and also physic and surgery in case of sickness. And the said *E. F.* doth hereby, for himself and on his part, consent and agree to and with the said *A. B.* his executors, administrators and assigns, that he the said *E. F.* shall and will truly and honestly serve him the said *A. B.* at all times for and during the said term, as a faithful clerk ought to do, in all things whatsoever, in the manner above specified. In consideration whereof, and of the sum of — *l.* of lawful money of *Great Britain*, by the said *C. D.* to the said *A. B.* in hand well and truly paid, at or before the sealing and delivery of these presents, (the receipt whereof he the said *A. B.* doth hereby acknowledge, and of and from the same, and every part thereof, doth acquit, release and discharge the said *C. D.* his executors and administrators, and every of them for ever, by these presents,) he the said *A. B.* for himself, his heirs, executors and administrators, doth covenant, promise and agree to and with the said *C. D.* his executors and administrators, by these presents, in manner following, (that is to say); that he the said *A. B.* shall and will accept and take the said *E. F.* as his clerk, and shall
and

and will find and provide him during the said term, with board and lodging : And also that he the said *A. B.* shall and will, by the best ways and means he may or can, and to the utmost of his skill and knowledge, teach and instruct, or cause to be taught and instructed the said *E. F.* in the said practice or profession of an attorney at law and solicitor in Chancery, which he the said *A. B.* now doth, or shall at any time hereafter during the said term, use or practice ; And also shall and will, at the expiration of the said term, use his best means and endeavours, at the request, costs and charges of the said *C. D.* and *E. F.* or either of them, to cause and procure him the said *E. F.* to be admitted and sworn an attorney of his majesty's said courts of King's Bench and Common Pleas, or either of them, or any other of his said majesty's courts of law or equity, provided he the said *E. F.* shall have well and faithfully served his said intended clerkship. In witness, (&c.)

In the King's Bench,
(or Common Pleas).

(52.)
Affidavit of
execution of
articles.

G. H. of — maketh oath and saith, that by articles of agreement, bearing date the — day of — last past, and made between *A. B.* of — gentleman, one of the attornies of his majesty's courts of King's Bench and Common Pleas at Westminster, and a solicitor in the high court of Chancery, of the one part, and *C. D.* of — and *E. F.* son of the said *C. D.* of the other part, the said *E. F.* for the considerations therein mentioned, did put, place and bind himself clerk to the said *A. B.* to serve him in the profession of an attorney at law and solicitor in Chancery, from the day of the date of the said articles, for the term of five years from thence next ensuing, and fully to be complete and ended ; and which said articles were in due form of law executed by the said *A. B. C. D.* and *E. F.* in the presence of this deponent and *J. K.* of — and that the names of *G. H.* and *J. K.* set and subscribed as witnesses to the due execution thereof, are of the proper handwriting of this deponent and the said *J. K.*

G. H.

Sworn, (&c.)

Notice

CHAP. II. Notice is hereby given, that *E. F.* of — now (or lately)
 (§ 3.) under articles of clerkship to *A. B.* of — attorney at law,
 Notice of in- intends to apply next — term, to be admitted (or readmit-
 tention to ap- ted) an attorney of his majesty's Court of King's Bench, (or
 ply for admis- mission, or read- Common Pleas.) Dated this — day of — 18—. *E. F.*
 sion, or read- mission, as an attorney.

(§ 4.)
 Affidavit of
 service under
 articles, and
 notice of inten-
 tion to apply
 for admission,
 in K. B.

In the King's Bench.

E. F. of — gentleman, maketh oath and saith, that he hath really and truly served and been employed by *A. B.* of — gentleman, as his clerk, in the practice of an attorney and solicitor, for the full term of five years, pursuant to the articles hereunto annexed: And this deponent further saith, that he did, previous to last — term, affix the name and place of abode of him this deponent, and also the name and place of abode of the said *A. B.* in the King's Bench office, and on the outside of the court of King's Bench in *Westminster-hall*; and that he did also, previous to the same term, enter his name and place of abode, as well as the name and place of abode of the said *A. B.* in the book kept for that purpose, at the chambers of each of the judges of his majesty's court of King's Bench.

E. F.

Sworn, (&c.)

(§ 5.)
 The like, in
 C. P.

In the Common Pleas.

E. F. of — gentleman, maketh oath and saith, that he hath really and truly served and been employed, &c. (as in the last.) And this deponent further saith, that he this deponent did, previous to the first day of — term last, affix notices in writing upon the outside of the court of Common Pleas at *Westminster-hall*, in such place as public notices are usually affixed on, and also at the several judges' chambers of this honorable court, and likewise in the Common Pleas office, purporting that the said *E. F.* intended to apply, as of the then next — term, to be admitted an attorney of this honorable court; and which said notices did contain the names and places of abode of the said *A. B.* and *E. F.* respectively.

E. F.

Sworn, (&c.)

In

In the King's Bench,
(or Common Pleas.)

CHAP. II.

(§ 6.)

Affidavit of
payment of
stamp-duty on
articles.

E. F. of — gentleman, maketh oath and saith, that the duty of 110*l.* imposed on articles of clerkship, by an act of parliament lately made and passed, was paid on certain articles of clerkship, made between *A. B.* of — gentleman, one, (&c.) of the one part, and *C. D.* of — and this deponent *E. F.* son of the said *C. D.* of the other part, bearing date the — day of — 18—, as appears by the stamp affixed on the said articles. And this deponent further saith, that the said articles were executed on the day of the date thereof, and were duly registered on the — day of — 18—, as appears by the certificate of — thereon.

Sworn, (&c.)

E. F.

I *E. F.* do swear, (or if a *quaker*, do affirm,) that I will truly and honestly demean myself in the practice of an attorney, according to the best of my knowledge and ability.

(§ 7.)

Oath, or affirmation, on admission.

So help me God.

George the Third, (&c.) To the judges of our court of our palace of *Westminster*, and to every of them, greeting: Whereas, according to the custom of our court before us at *Westminster*, hitherto used and approved of in the same, the attornies of our same court before us, whilst they are prosecuting or defending suits and actions therein for their clients, ought not, nor have they from time immemorial been used to be compelled, to answer before any of our justices or officers, or other secular judges whatsoever, upon any pleas, complaints or demands, which do not particularly relate to us, (pleas of freehold, felonies and appeals excepted,) save only before us, by bill exhibited in our said court before us, and not by writ: And whereas we have lately received information, by the complaint of *A. B.* gentleman, one of the attornies of our said court, that several ill-disposed persons, intending to disquiet the said *A. B.* have issued forth and prosecuted out of our court of our palace of *Westminster*, one or more writ or writs, returnable before you in the same court, or one or more precept or precepts, returnable in our said court before you or one of you, against the said *A. B.* and threaten to arrest and detain him in your custody thereupon, in suits that

(§ 8.)

Writ of privilege, to an inferior court, for an attorney of K. B.

CHAP. II.

that do not relate to us, or pleas of freehold, felonies or appeals, whereby the said *A. B.* is unable to attend his said office as an attorney; upon several affairs and suits depending in our said court before us; which if it be permitted, will not only take away, and be in derogation and diminution of the jurisdiction of our said court before us, and the liberties and privileges thereof, but also to the great detriment of the said *A. B.* and his clients: And because we are willing that the jurisdictions, privileges and customs, for so long time used and approved in our said court before us, should be inviolably kept and observed; we command you, and every of you, that you desist from taking the said *A. B.* into your custody, upon any writ or writs, precept or precepts; and if the said *A. B.* be detained in your custody by any writ or writs, precept or precepts, other than such as particularly relate to us, (pleas of freehold, felonies and appeals only excepted,) that then you discharge the said *A. B.* out of your custody, and suffer him to go at large, as you will answer the contrary at your peril; and that you inform the party or parties, plaintiff or plaintiffs in the plaint or plaints, that he, she or they may prosecute his, her or their action or actions, suit or suits, in our court before us, by bill to be exhibited to us, in our said court before us at *Westminster*, against the said *A. B.* if he, she or they shall think it expedient so to do. Witness, (&c.)

(§ 9.)
The like, to
discharge an
attorney from
the office of
collector of
taxes.

George the Third, (&c.) To the commissioners appointed for carrying into execution the several acts of parliament hereinafter enumerated, that is to say, "an act," &c. (here enumerate the acts, as in the warrant of appointment,) and particularly to *E. F. G. H.* and *J. K.* three of the said commissioners, greeting: Whereas it has been shewn to us, on behalf of *A. B.* one of the attorneys of our court before us, that whereas he is one of the attorneys of our said court before us, and prosecutes and defends divers suits and businesses of and for many of our liege subjects, prosecuting and defending in our said court before us, as their attorney; and that according to the liberties and privileges of the said court, from time whereof the memory of man is not to the contrary used and approved of, no attorney of the same court ought to be appointed or compelled to take upon him any office or service,

to

to be exercised or performed elsewhere than in our court aforesaid, whereby he may be withdrawn from his due attendance in our said court: Nevertheless, you or some of you, contriving to aggrieve the said *A. B.* have appointed or intend to appoint him to the office of one of the collectors of the several taxes rates and duties, under the management of the commissioners for the affairs of taxes, within the town and hamlet of — in the lower division of the hundred of — in the county of —, which office, as we are informed, will require his constant residence there; and which, if it be permitted, would tend to the manifest loss and damage of the said *A. B.* and many of our liege subjects, whose attorney he is in the court aforesaid: Wherefore the said *A. B.* has humbly besought us to provide him a proper remedy in this behalf; and we being willing that the liberties and privileges of our said court should be inviolably observed, command you and every of you, that without regard to the aforesaid appointment of the said *A. B.* you or some of you cause to be appointed another fit person to the said office; and that you or some of you without delay exonerate and discharge the said *A. B.* from the said office, and that you altogether cease and abstain from proceeding against him for not taking upon him the same, as you will answer the contrary at your peril. Witness, (&c.)

George the Third, (&c.) To the sheriff of — greeting: Attach *C. D.* gentleman, one of the attornies of our court of Common Bench, so that you have him before our justices at *Westminster*, on — next after —, to answer us, of and concerning those things which shall then on our behalf be objected against him; and have you there this writ. Witness Sir *Vicary Gibbs* knight, at *Westminster*, the — day of —, in the — year of our reign. (§ 10.) Attachment for contempt, against an attorney, in C. P.

In the Common Pleas.

— term, in the — year of the reign of king *George the Third.* (§ 11.) Interrogatories thereon.

A. B.
v.
C. D.
gent. one,
&c. } Interrogatories to be administered to *C. D.* of — gentleman, one of the attornies of the court of our lord the now king of the Bench at *Westminster*, touching and concerning a contempt

CHAP. II. tempt supposed to be by him committed against the said court.

(Here insert such interrogatories as are adapted to the case, concluding with the *jurat* as follows :)

The abovesaid *C. D.* was sworn, the — day of — 18—, true answer to make to such questions as should be asked him, on his examination on the above interrogatories, before me, at my chambers, in *Serjeant's Inn, Chancery Lane.*

CHAP. III.

*Of the WARRANT of ATTORNEY, to prosecute or defend ;
and of PAUPERS and INFANTS.*

— (to wit). *A. B.* puts in his place *E. F.* his attorney, (§ 1.)
Warrant of attorney for plaintiff.
against *C. D.* (or in the Common Pleas, against *C. D.* late of
—,) of a plea of trespass on the case, (or *debt*, &c. accord-
ing to the nature of the action)

— (to wit). The said *C. D.* puts in his place *G. H.* his (§ 2.)
The like, for defendant.
attorney, at the suit of the said *A. B.* in the plea aforesaid.

In the court of King's Bench, (§ 3.)
Memorandum of warrant for plaintiff.
(Common Pleas, or
Exchequer of Pleas.)

— (to wit). *E. F.* is retained to prosecute by *A. B.* as
his attorney, against *C. D.*

No. — (on) *E. F.* plaintiff's attorney.
the file.) }

[If by an agent to the attorney immediately retained, add,
by *G. H.* his agent.]

Entered, or filed of record, this — day of — in the
— year of the reign of king *George* the Third.

— (Officer's name.)

In the court of King's Bench, (&c.)

— (to wit). *E. F.* is retained to defend by *C. D.* as his (§ 4.)
The like, for defendant.
attorney, at the suit of *A. B.*

E. F. defendant's attorney.

[If by an agent, add, by *G. H.* his agent.]

Entered, or filed of record, this — day of — in the
— year of the reign of king *George* the Third.

— (Officer's name.)

CHAP. III. In the court of King's Bench, (&c.)

(§ 5.)
The like, on a
cognovit, &c.

— (to wit). *E. F.* is retained to enter up judgment on a
cognovit actionem, (or warrant of attorney to acknowledge
judgment, as the case may require,) dated on the — day of
— at the suit of *A. B.* against *C. D.*

E. F. Attorney.

[If by an agent, add, by *G. H.* his agent.]

Entered, or filed of record, (as the case may require) this
— day of — in the — year of the reign of king *George*
the Third.

— (Officer's name.)

(§ 6.)
Summons to
change plain-
tiff's attorney,
in K. B.

B. } Let Mr. *G. H.* the plaintiff's attorney, or his agent,
v. } attend me at my chambers in *Serjeant's Inn*, to-morrow at
D. } eleven o'clock, to shew cause why Mr. *E. F.* should not
be appointed attorney for the plaintiff in this cause, in his
stead.

Ellenborough.

(§ 7.)
Order thereon,
in K. B.

B. } I order that Mr. *E. F.* be appointed attorney for the
v. } plaintiff in this cause, in the stead of Mr. *G. H.*
D. } Dated, (&c.)

Ellenborough.

(§ 8.)
Affidavit to be
admitted to
sue in form
pauperis.

In the King's Bench, (&c.)

A. B. plaintiff,
and
C. D. defendant.

A. B. of — maketh oath and saith, that he is not worth
five pounds in the world, (save and except his wearing appa-
rel, and the matter in question in this cause.)

A. B.

Sworn, (&c.)

(§ 9.)
Petition there-
on.

To the Right Honourable *Edward* Lord *Ellenborough*, Lord
Chief Justice of his Majesty's Court of King's Bench,
(or in the Common Pleas, "To the Right Honourable Sir
Vicary

Vicary Gibbs Knight, Lord Chief Justice of his Majesty's Court of Common Pleas; or in the Exchequer, "To the Right Honourable *Sir Alexander Thomson* Knight, Lord Chief Baron of his Majesty's Court of Exchequer, at *Westminster*, and the rest of the Barons of the said Court."

The humble petition of *A. B.* of —.

Sheweth,

That the said defendant is justly indebted unto your petitioner, in the sum of — *l.* for the work and labour of your petitioner, done for the said defendant at his request, (or, as the case may be); and your petitioner hath commenced an action against him for the same, but finds himself unable (or hath not yet commenced any action against him for the same, being unable) to carry on the said cause, on account of his extreme poverty, as appears by the affidavit hereto annexed.

Your petitioner therefore most humbly prays your lordship, (or in the Exchequer, your honours,) that he may be admitted to prosecute his said action *in formâ pauperis*, and that *E. F.* Esquire, (or in the Common Pleas, *E. F.* serjeant) may be assigned to him as his counsel, and *G. H.* Gentleman as his attorney, to prosecute his said suit.

And your petitioner shall ever pray, &c.

I humbly conceive, that the said petitioner hath good cause of action against the above-named *C. D.* and consent to be his counsel.

(§ 10.)
Opinion of
counsel.

E. F.

CHAP. III.

(§ 11.)

Petition by an
infant, to be
admitted to
sue by *prochein*

In the King's Bench, (&c.)

A. B. plaintiff,

and

C. D. defendant.To the Right Honourable *Edward Lord Ellenborough*, &c.

(as before, p. 19.)

The humble petition of *A. B.* the plaintiff in this cause ;

Sheweth,

That your petitioner has, as he is advised, good cause of action against the above-named *C. D.* for a breach of promise of marriage, &c. (as the case may be) : and that your petitioner has lately commenced an action in this honourable court against the said *C. D.* for the same ; but in regard that your petitioner is an infant, under the age of twenty-one years, to wit, of the age of —.

Your petitioner therefore humbly prays your lordship, (or in the Exchequer, your honours), to admit him to prosecute the said action by *E. F.* of — your petitioner's next friend.

And your petitioner shall ever pray, &c.

(§ 12.)
The like, to
defend by
guardian.

In the King's Bench, (&c.)

A. B. plaintiff,

and

C. D. defendant.To the Right Honourable *Edward Lord Ellenborough*, &c.

(as before, p. 19.)

The humble petition of *C. D.* the defendant in this cause ;

Sheweth,

That the above-named plaintiff has lately commenced an action at law against your petitioner, for &c. (here set forth the cause of action,) and your petitioner is advised and believes, that he has a good defence to make thereto ; but in regard that your petitioner is an infant under the age of twenty-one years ;

Your petitioner therefore humbly prays your lordship, (or in the Exchequer, your honours), that you would be pleased to assign *G. H.* of — as his guardian to defend this suit.

And your petitioner shall ever pray, &c.

(§ 13.)
Consent of
prochein ami, or
guardian.

I do hereby consent and agree, that the above-named *A. B.* shall be at liberty to prosecute this action, by me as his next friend,

friend, for that the above-named *C. D.* shall be at liberty to defend this action, by me as his guardian,) according to the prayer of the above petition. Witness my hand, this — day of — 18—.

Witness, *G. H.*

E. F.

In the King's Bench, (&c.)

A. B. plaintiff,

and

C. D. defendant.

(§ 14.)
Affidavit of
signature of
petition, and
consent.

G. H. of — maketh oath and saith, that *A. B.* the above-named plaintiff, (or *C. D.* the above-named defendant,) did on the — day of — instant, duly sign the petition hereunto annexed, in the presence of this deponent: And this deponent further saith, that at the same time he was present, and did see *E. F.* the person mentioned in the prayer of the said petition, duly sign the consent or agreement thereunder written, as the next friend of the said *A. B.* (or, as the guardian of the said *C. D.*)

Sworn, (&c.)

G. H.

IT is ordered by the court, that *E. F.* be admitted to prosecute for *A. B.* who is under the age of twenty-one years, against *C. D.* a certain action of trespass on the case, (or as the action is,) in the court of the lord the king before the king himself, as the next friend of the said *A. B.* during his minority.

(§ 15.)
Rule of court
thereupon, in
K. B.

By the Court.

IT is ordered by the court, that *G. H.* be admitted to defend for *C. D.* who is under the age of twenty-one years, at the suit of *A. B.*, a certain action of trespass on the case, (or as the action is,) in the court of the lord the king before the king himself, as the guardian of the said *C. D.* during his minority.

(§ 16.)
Rule of court
for the admis-
sion of a guar-
dian for defend-
ant, in K. B.

By the Court.

E. F. is admitted to prosecute and defend for *A. B.* who is under the age of twenty-one years, all and all manner of actions, suits and controversies whatsoever, in the court of the lord the king before the king himself, as the next friend and guardian of the said *A. B.* during his minority. Admitted the — day of — 18—.

(§ 17.)
General ad-
mission to pro-
secute and de-
fend, &c. in
K. B.

Ellenborough.

CHAP. IV.

Of the ORIGINAL WRIT and PROCESS thereon, PREVIOUS to the CAPIAS.

(§ 1.)
Præcipe for an
original writ in
covenant.

— (to wit).^{*} **COMMAND** *C. D.* late of — that justly and without delay he keep with *A. B.* the covenant (or covenants) made by the said *C. D.* with the said *A. B.* according to the force, form and effect of a certain indenture, (or deed-poll, or articles of agreement, as the case may be,) in that behalf made between them, as it is said; and unless, &c.

Returnable before the lord the king, on —, wheresoever, &c. (or in C. P. before his majesty's justices at *Westminster*, on —.)

(§ 2.)
Original writ
thereon.

George the Third, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, to the sheriff of — greeting: **Command** *C. D.* late of — that justly and without delay he keep with *A. B.* the covenant (or covenants) made by the said *C. D.* with the said *A. B.* according to the force, form and effect of a certain indenture, (or deed-poll, or articles of agreement,) in that behalf made between them, as it is said: and unless he shall so do, and if the said *A. B.* shall make you secure of prosecuting his claim, then summon by good summoners the said *C. D.* that he be before us, on — wheresoever we shall then be in *England*, (or in C. P. before our justices at *Westminster*, on —,) to shew wherefore he hath not done it; and have there the names of the summoners, and this writ. Witness ourself at *Westminster*, the — day of — in the — year of our reign.

(§ 3.)
Præcipe for
original writ in
debt.

— (to wit). **Command** *C. D.* late of — that justly and without delay he render to *A. B.* the sum of — *l.* of good and

and lawful money of *Great Britain*, which he owes to, and CHAP. IV.
unjustly detains from him, as it is said; and unless, &c.

Returnable before the lord the king, on — wheresoever,
&c. (or in C. P. before his majesty's justices at *Westminster*,
on —.)

George the Third, (&c.) To the sheriff of — greeting: (§ 4.)
Original writ
thereon.
Command *C. D.* late of — that justly and without delay he
render to *A. B.* the sum of — *l.* of good and lawful money
of *Great Britain*, which he owes to, and unjustly detains from
him, as it is said: and unless he shall so do, and if the said
A. B. shall make you secure of prosecuting his claim, then
summon by good summoners the said *C. D.* that he be before
us, on — wheresoever we shall then be in *England*, (or in
C. P. before our justices at *Westminster*, on —,) to shew
wherefore he hath not done it; and have there the names of
the summoners, and this writ. Witness ourself at *West-*
minster, the — day of — in the — year of our reign.

— (to wit.) If *A. B.* make you secure, &c. then put by (§ 5.)
Præcipe for
original writ in
case.
gages and safe pledges *C. D.* late of — that he be before
our lord the king, on — wheresoever our said lord the king
shall then be in *England*, (or in C. P. before our justices at
Westminster, on —,) to shew, For that whereas, &c. (here
set out the cause of action, as in a declaration,) to the damage
of the said *A. B.* of — *l.* as it is said, &c.

George the Third, (&c.) To the sheriff of — greeting: (§ 6.)
Original writ
thereon.
If *A. B.* shall make you secure of prosecuting his claim, then
put by gages and safe pledges *C. D.* late of — that he be
before us, on — wheresoever we shall then be in *England*,
(or in C. P. before our justices at *Westminster*, on —,) to
shew, For that whereas, &c. (as in the *præcipe*, to the words
“as it is said”); and have there the names of the pledges,
and this writ. Witness ourself at *Westminster*, the — day
of — in the — year of our reign.

— (to wit.) Original *quare clausum fregit* for *A. B.* (§ 7.)
Præcipe for ori-
ginal *quare*
clausum fregit,
in C. P.
against *C. D.* late of — trespass at —, returnable before
his majesty's justices at *Westminster*, on —.

E. F. attorney.

George

CHAP. IV.

(§ 8.)
Original writ
thereon.

George the Third, (&c.) To the sheriff of — greeting :
If *A. B.* shall make you secure of prosecuting his claim, then put by gages and safe pledges, *C. D.* late of —, that he be before our justices at *Westminster*, on —, to shew wherefore with force and arms the close of the said *A. B.* at — he broke, and other wrongs to him did, to the great damage of the said *A. B.* and against our peace; and have there the names of the pledges, and this writ. Witness ourself at *Westminster*, the — day of — in the — year of our reign.

(§ 9.)
Table of fines
payable on
original writs.

Where the sum demanded, or damages in the original writ exceed 40*l.* the following fines are payable to the king :

From 40 <i>l.</i> to 100 marks, being	66 <i>l.</i>	13 <i>s.</i>	4 <i>d.</i>	£.0	6	8
From 100 marks to 100 <i>l.</i>	-	-	-	0	10	0
From 100 <i>l.</i> to 200 marks	-	-	-	0	13	4
From 133 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i> to 166 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i>	-	-	-	0	16	8
From 166 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i> to 200 <i>l.</i>	-	-	-	1	0	0
And for every 100 marks more	-	-	-	0	6	8
And for every 100 <i>l.</i> more	-	-	-	0	10	0

(§ 10.)
Notice to ap-
pear to sum-
mons (or at-
tachment), on
stat. 51 Geo.
III c. 1 § 2.

C. D. (naming the defendant.)

You are served with this process, at the suit of *A. B.* (naming the plaintiff or plaintiffs,) to the intent that you may appear by your attorney, in his majesty's court of — at *Westminster*, at the return hereof, being the — day of —, in order to your defence in this action: And take notice, that in default of your appearance, the said *A. B.* will cause an appearance to be entered for you, and proceed thereon, as if you had yourself appeared by your attorney.

(§ 11.)
Return to ori-
ginal, on the
above statute,
that the de-
fendant has
been personally
served with a
summons (or
attachment.)

By virtue of this writ to me directed, I have caused the within-named *C. D.* to be personally served with a summons (or attachment) thereon; at the foot of which summons (or attachment) there was written a notice, informing the said *C. D.* of the intent and meaning of such service, pursuant to the statute in that case made and provided.

The answer of — sheriff.

(§ 12.)
The like, where
the defendant
cannot be met
with.

The within-named *C. D.* hath nothing in my bailiwick, by which he can be summoned (or attached), nor is he found in the

same, so that he cannot be personally served with a summons (or attachment) on this writ, pursuant to the statute in that case made and provided. CHAP. IV.

The answer, (&c.)

In the King's Bench,
(or Common Pleas.)

A. B. plaintiff,
and
C. D. defendant.

(§ 13.)
Affidavit there-
on, to found a
distingas.

E. F. of — gentleman, attorney for the above-named plaintiff, maketh oath and saith, that he this deponent did on or about the — day of — instant, (or last past) cause an original writ to be issued out of his majesty's high court of Chancery, at the suit of the above-named plaintiff, against the above-named defendant, in a plea of breach of covenant (or debt on demand for — *l.* or trespass on the case, to the damage of the said plaintiff of — *l.* as the plea is,) directed to the sheriff of —, and returnable before the lord the king on — last past, wheresoever his said majesty should then be in England, (or in the Common Pleas, before his majesty's justices at *Westminster* aforesaid, on — last past,) and did cause the said writ to be delivered for execution to the said sheriff of —; and that the said sheriff, by virtue of the said writ, did cause a summons (or attachment) to be issued thereon, and delivered to — his officer in that behalf; at the foot of which summons (or attachment) there was written a notice, informing the said defendant of the intent and meaning of such service, pursuant to the statute in that case made and provided: And this deponent further saith, that the said defendant could not be personally served with such summons (or attachment), as appears to this deponent by the sheriff's return indorsed on the said writ; and that the said defendant hath not appeared thereto.

Sworn, (&c.)

E. F.

George the Third, (&c.) To the sheriff of — greeting: Put by gages and safe pledges *C. D.* late of — that he be before us, on — wheresoever we shall then be in *England*, to answer to *A. B.* of a plea that he keep with him the covenant, (&c.) or that he render to him, &c. (as in the original writ, to the words "as it is said,") and to shew wherefore he was not before us at *Westminster*, on —, as he was summoned; and

(§ 14.)

Pone or attach-
ment on an
original writ,
in covenant or
debt, in K. B.

CHAP. IV. and have there the names of the pledges, and this writ. Witness *Edward* Lord *Ellenborough*, at *Westminster*, the — day of — in the — year of our reign.

Kenyon.

(§ 15.)
Sheriff's return
thereto.

The within-named *C. D.* is attached by pledges, *E. F.* and *G. H.* (or has nothing in my bailiwick, by which he can be attached).

The answer, (&c.)

(§ 16.)
Testatum pone
or attachment,
in K. B.

George the Third, (&c.) To the sheriff of — greeting: Put by gages and safe pledges *C. D.* late of — that he be before us on — wheresoever we shall then be in *England*, to answer to *A. B.* of a plea, &c. (as in the *pone*, to the words "as it is said"); and whereupon our sheriff of — returned to us, on, &c. (the return day of the *pone*.) last past, that the said *C. D.* had nothing in his bailiwick, by which he could be attached: whereas it is testified in our same court before us, that the said *C. D.* hath sufficient in your bailiwick, by which he may be attached; and have there the names of the pledges, and this writ. Witness *Edward* Lord *Ellenborough*, at *Westminster*, the — day of — in the — year of our reign.

Kenyon.

N. B. The proceeding by *pone* or attachment, on an original writ, is now disused, in consequence of the statute 51 Geo. III. c. 124. § 2.

(§ 17.)
Distringas on
an original writ,
in K. B.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you distrain *C. D.* late of — by all his lands and chattels in your bailiwick, so that neither he, nor any one for him, do lay hands on the same, until you shall receive from us another command in that behalf, and that you answer to us for the issues of the same, so that he be before us on — wheresoever we shall then be in *England*, to answer to *A. B.* of a plea, for that whereas, &c. (in case; or in covenant, of a plea that he keep, &c. or in debt, of a plea that he render, &c. as in the original, to the words "as it is said,") and to hear judgment thereupon for his many defaults; and have there this writ. Witness *Edward* Lord

Lord Ellenborough, at Westminster, the — day of — in CHAP. IV.
the — year of our reign.

Kenyon.

George the Third, (&c.) To the sheriff of — greeting : (§ 18.)
We command you, that you distrain *C. D.* late of — by all The like, on an original *quare clausum fregit*, in C. P.
his lands and chattels, &c. (as in the last,) so that he be before our justices at Westminster, on — next after —, to answer *A. B.* of a plea wherefore with force and arms, the close of the said *A. B.* at — he broke, and other wrongs to him did, to the great damage of the said *A. B.* and against our peace; and to hear judgment thereupon for his many defaults; and have there then this writ. Witness Sir Vicary Gibbs knight, at Westminster, the — day of — in the — year of our reign.

In the Court of King's Bench,
(or Common Pleas)

A. B. plaintiff,
and
C. D. defendant.

(§ 19.)
Notice to appear to *distringas*, on stat. 51 Geo. III. c. 124. § 2.

Take notice, that I have this day distrained upon your goods and chattels, for the sum of 40s. in consequence of your not having appeared by your attorney in the said court, at the return of a writ of —*, returnable there on the — day of —; and that in default of your appearing to the present writ of *distringas*, at the return thereof, being the — day of —, the said *A. B.* will cause an appearance to be entered for you, and proceed thereon, as if you had yourself appeared by your attorney.

To *C. D.* the above-named defendant.

E. F.

(the name of the sheriff's officer.)

The within-named *C. D.* is distrained by — of the value (§ 20.)
of 40s. : And I further certify and return, that at the time of Return of execution of *distringas*, and service of notice, on the above statute.
the execution of this writ, I caused a written notice to be served on the said *C. D.* apprizing him of the cause of the distress, and that in default of his appearing to this writ, at the return thereof, being the — day of —, the within-named *A. B.* would cause an appearance to be entered for

* This it seems means the original writ, and might be so called in the notice.

him,

CHAP. IV. him, and proceed thereon, as if he had himself appeared by his attorney.

The answer, (&c.)

(§ 21.) The within-named *C. D.* is distrained, &c. (as before):
The like, where defendant cannot be met with. And I further certify and return, that at the time of the execution of this writ, the said *C. D.* was not found, nor could be met with in my bailiwick; wherefore I caused a written notice to be left at his dwelling house (or place of abode), situate at — in my county, being the place where this writ was executed, apprizing him, &c. (as in the last.)

The answer, (&c.)

(§ 22.) The within-named *C. D.* hath nothing in my bailiwick, by which he can be distrained, nor is he found in the same; wherefore I caused a written notice to be left, &c. (as in the last.)
The like, where defendant has no goods, and cannot be met with.

The answer, (&c.)

(§ 23.)
Affidavit of personal service of summons (or attachment), to enter common appearance, on same statute.

In the King's Bench,
 (or Common Pleas.)

A. B. plaintiff,
 and
C. D. defendant.

E. F. of — officer to the sheriff of — maketh oath and saith, that he this deponent, as such officer, did on the — day of — instant (or last past), personally serve the above-named defendant with a summons (or attachment) on an original writ, issued out of his majesty's high court of Chancery, directed to the sheriff of —, and returnable before the lord the king, on — wheresoever, &c. (or in the Common Pleas, before his majesty's justices at Westminster on —); at the foot of which summons (or attachment) was written a notice, informing the said defendant of the intent and meaning of such service, pursuant to the statute in that case made and provided.

Sworn, (&c.)

E. F.

(§ 24.)
The like, of the due execution of distringas, &c. on same statute.

In the King's Bench,
 (or Common Pleas.)

A. B. plaintiff,
 and
C. D. defendant.

E. F. of — officer to the sheriff of — maketh oath and saith, that he this deponent, as such officer, did on the — day of — instant (or last past), by virtue of a writ of — of

of *distringas*, which appeared to this deponent to be regularly issued out of and under the seal of this honourable court, directed to the sheriff of —, and returnable before the lord the king, on — wheresoever, &c. (or in the Common Pleas, before his majesty's justices at *Westminster*, on — next after —,) and of the said sheriff's warrant upon the said writ, distrain upon the goods and chattels of the above-named defendant, for the sum of 40s. in consequence of his not having appeared by his attorney in the said court, at the return of an original writ, returnable there on the — day of — last past: And this deponent further saith, that at the time of the execution of the said writ of *distringas*, he this deponent, as such officer as aforesaid, served a written notice on the said defendant, apprizing him of the cause of his distress, and that in default of his appearing to the said last mentioned writ, at the return thereof, being the — day of — the above-named plaintiff would cause an appearance to be entered for him, and proceed thereon, as if he had himself appeared by his attorney."

Sworn, (&c.)

E. F.

If the defendant cannot be met with, say: And this deponent further saith, that at the time of the execution of the said writ of *distringas*, the said defendant could not be met with in the said sheriff's bailiwick; for which reason he this defendant, as such officer as aforesaid, left a written notice at the dwelling house (or place of abode) of the said defendant, situate at —, being the place where the said last-mentioned writ was executed, apprizing him, &c. (as in the last.)

(§ 25.)
The like, where
defendant cannot
be met
with.

TABLE OF TERMS AND RETURNS.

HILARY TERM.

Returns by original.

1. In eight days of Saint Hilary.
2. In fifteen days of Saint Hilary.
3. On the morrow of the Purification.
4. In eight days of the Purification.

Returns by bill, and attachment of privilege.

1. On — next after eight days of Saint Hilary.
2. On — next after fifteen days of Saint Hilary.
3. On — next after the morrow of the Purification.
4. On — next after eight days of the Purification.

EASTER TERM.

1. In fifteen days of Easter.
2. In three weeks after Easter.
3. In one month after Easter.
4. In five weeks from Easter-day.
5. On the morrow of the Ascension.

1. On — next after fifteen days of Easter.
2. On — next after three weeks from the day of Easter.
3. On — next after one month from the day of Easter.
4. On — next after five weeks from the day of Easter.
5. On — next after the morrow of the Ascension.

TRINITY TERM.

1. On the morrow of the holy Trinity.
2. In eight days of the holy Trinity.
3. In fifteen days of the holy Trinity.
4. In three weeks after the holy Trinity.

1. On — next after the morrow of the holy Trinity.
2. On — next after eight days of the holy Trinity.
3. On — next after fifteen days of the holy Trinity.
4. On — next after three weeks of the holy Trinity.

MICHAELMAS TERM.

1. On the morrow of All Souls.
2. On the morrow of St. Martin.
3. In eight days of St. Martin.
4. In fifteen days of Saint Martin.

1. On — next after the morrow of All Souls.
2. On — next after the morrow of Saint Martin.
3. On — next after eight days of Saint Martin.
4. On — next after fifteen days of Saint Martin.

In Chancery.

A. B. plaintiff,
and
C. D. defendant.

CHAP. IV.

(§ 27.)

Petition to the
Master of the
Rolls, for original writ, returnable in
C. P.

To the right honorable the Master of the Rolls.

The humble petition of *A. B.* plaintiff;

Sheweth,

That your petitioner, in — term (or vacation) last, commenced an action at law, by original writ, against the above-named *C. D.* late of — in his majesty's court of Common Pleas at *Westminster*, in a plea of trespass on the case, to his damage of —*l.* (or as the plea is), wherein your petitioner hath laid his venue in the county of —; and judgment hath been obtained in such action, in — term last past, for —*l.* damages and —*l.* costs (or according to the fact;) whereupon the said defendant hath brought his writ of error, returnable in his majesty's court of King's Bench, on — wheresoever, (&c.) but no further proceedings have been had thereon.

That your petitioner hath not as yet sued out any original writ to warrant the said judgment; and he is advised, that it is necessary the same should be sued out, to warrant the said judgment: But the time for applying for the same in the ordinary course being expired, the cursitor of the said county cannot make out the same, without your honor's order for that purpose;

Your petitioner therefore humbly prays your honor, to grant unto him an order, that the cursitor for the said county of — may issue an original writ in this cause, out of his majesty's high court of Chancery, returnable in his said majesty's court of Common Pleas, on — in — term last.

And your petitioner shall ever pray, &c.

A. B.

— 18—.

Be it so; and let the petitioner pay the defendant his costs in error, in case he shall not, after having had notice of this order, (§ 28.)
Final thereon.

CHAP. IV. order, further prosecute his said writ of error; and hereof give notice forthwith.

W. Grant.

(§ 29.)
Order thereon.

— the — day of —, in the — year of the reign of his majesty king *George* the Third, 18—. Between *A. B.* plaintiff and *C. D.* defendant.

Upon consideration this day had, by the right honorable the Master of the Rolls, of the humble petition of the plaintiff, setting forth that the petitioner having in — term (or vacation) last past, commenced an action, &c. (reciting the petition:) It is thereupon ordered, that the cursitor of the said county of — do issue an original writ in this cause, out of this court, returnable in his majesty's court of Common Pleas, on — in — term last past: And it is further ordered, that the petitioner pay the defendant his costs in error, in case the defendant shall not, after having had notice of this order, further prosecute his said writ of error; and hereof notice is to be given forthwith.

(§ 30.)
Petition to the Master of the Rolls, for amending original writ, after amendment of special capias.

In Chancery.

A. B. plaintiff,
and
C. D. defendant.

To the right honorable the Master of the Rolls

The humble petition of *A. B.* plaintiff;
Sheweth,

That your petitioner, in — term (or vacation) last, commenced an action at law, by original writ, against the above-named *C. D.* late of — in his majesty's court of King's Bench (or Common Pleas) at *Westminster*, in a plea of trespass on the case, to his damage of —*l.* (or as the plea is,) wherein your petitioner hath laid his venue in the county of —; but the day on which the cause of action arose is laid by mistake, in the said original writ, on the — day of — 18—, instead of the — day of — in the same year.

That by a rule of his said majesty's court of King's Bench, (or Common Pleas,) made in this action, on — next after — in this present — term, it was ordered by the same court

court, that the writ of special *capias ad respondendum* in this action should be amended, by altering the day laid therein from the said — day of — 18— to the said — day of the same month of —, on payment of costs to be taxed by the master; which costs have been taxed, in pursuance of the said rule, and paid by your petitioner, and the said writ of special *capias ad respondendum* hath been amended accordingly.

CHAP. IV.

That your petitioner is advised it will be necessary to amend the original writ in this action, in the particular mentioned in the said rule of court, in order that the same may be consonant in form to the said writ of special *capias ad respondendum*, and subsequent proceedings in the said action: But inasmuch as the cursitor for the said county of — cannot amend the same, without your honor's order for that purpose;

Your petitioner therefore humbly prays your honor, to grant unto him an order, that the cursitor for the said county of — do amend the original writ in this action, by altering the day laid therein from the said — day of — 18— to the — day of the same month of —.

And your petitioner shall ever pray, &c.

A. B.

— the — day of —, in the — year of the reign of his majesty king *George* the Third, 18—. Between *A. B.* plaintiff, and *C. D.* defendant.

(§ 32.)
Order to amend original writ, after amendment of declaration.

Upon consideration this day had, by the right honorable the Master of the Rolls, of the humble petition of the plaintiff, setting forth, That the petitioner, in — term (or vacation) last, commenced an action at law, by original writ, against the above-named *C. D.* in his majesty's court of King's Bench (or Common Pleas) at *Westminster*, in a plea of (&c.) to his damage of —*l.* the venue in which action is laid in the county of —; and that the petitioner declared in the said action, in — term last: That by an order made in this cause, on the — day of — last, by the right honorable the Lord Chief Justice of his majesty's said court of King's Bench, (or Common Pleas) it was ordered, that the petitioner should be at liberty to amend the declaration in this cause, in the

D

manner

CHAP. IV. manner therein and hereinafter mentioned, on payment of costs to be taxed by the Master : That the petitioner, in pursuance of the said order, hath taxed and paid the defendant's costs, and amended the said declaration : That the petitioner is advised it will be necessary to amend the original writ in this action, in the particulars in the said order, and hereinafter mentioned, in order that the same may be consonant in form to the said declaration : But inasmuch as the cursitor of the said county of — cannot amend the same, without an order for that purpose ; it was prayed, and upon reading the said Chief Justice's order, it is accordingly ordered, that the cursitor for the said county of — do amend the original writ in this action, by adding averments, &c. (as in the order to amend,) resealing the said original writ.

CHAP. V.

*Of the PROCEEDINGS in ACTIONS against PEERS of the
REALM, and MEMBERS of the HOUSE of COMMONS;
and against CORPORATIONS and HUNDREDORS.*

— (to wit.) If *A. B.* make you secure, &c. then sum-
mon by good summoners, the right honorable — Marquis (§ 1.)
Præcipe for ori-
ginal writ, a-
gainst a peer,
in case.
(or Earl) of —, (giving the defendant his proper title,) late of — (having privilege of parliament,) that he be before our lord the king, on — wheresoever our said lord the king shall then be in *England*, (or in the Common Pleas, before our justices at *Westminster*, on —) to shew, for that whereas, &c. (setting out the cause of action, as in a declaration; but taking care, in assigning the breach in *assumpsit*, not to charge the defendant with contriving and fraudulently intending, craftily and subtilly to deceive and defraud the plaintiff:) to the damage of the said *A. B.* of — l. as it is said, &c.

— (to wit.) If *A. B.* make you secure, &c. then put by gages and safe pledges, *C. D.* late of — Esquire, (having privilege of parliament,) that he be, &c. (as in the last.) (§ 2.)
The like, a-
gainst a mem-
ber of the
House of Com-
mons.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you distrain the right honorable — Marquis (or Earl), &c. (or *C. D.* late of — Esquire,) having privilege of parliament, by all his lands and chattels, &c. (as before, p. 26.) (§ 3.)
Distringas a-
gainst a peer,
or member of
the House of
Commons.

George the Third, (&c.) To the sheriff of — greeting: We command you, as before (or as oftentimes) we have commanded you, that you distrain, (&c.) (§ 4.)
Alias or pluries
distringas.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you distrain, &c. (as in the *distringas*, altering the return, to the words “many defaults;”) and (§ 5.)
Testatum dis-
tringas.
D 2 whereupon

CHAP. V. whereupon our sheriff of — returned to us, (or in C. P. to our justices at *Westminster*,) on — (the return of the *distringas*,) last past, that the said Marquis (or Earl) &c. (or the said C. D.) had nothing in his bailiwick, by which he could be distrained : whereas it is testified in our same court before us, (or in C. P. before our said justices at *Westminster*,) that the said Marquis (or Earl), &c. (or the said C. D.) hath sufficient lands and chattels in your bailiwick, by which he may be distrained ; and have there this writ. Witness, (&c.)

(§ 6.)
Rule *nisi* for
sale of issues,
in K. B.

A. B.) Upon reading the several writs of *distringas*
v.) issued in this cause, it is ordered, that the de-
C. D.) fendant, upon notice, (&c.) shall on — shew
cause, why the issues returned upon the said several writs of
distringas should not be sold, and the monies arising from
the sale thereof should not be forthwith brought into court,
and why it should not be referred to the master to tax the
plaintiff his costs, occasioned by his issuing out the said several writs ; and why the costs, when taxed, should not be paid
out of the monies so brought into court, and why the surplus of the said monies, after payment of the said costs,
should not be retained in court, until the purpose of the
said writs be answered. On the motion of Mr. —.

By the Court.

(§ 7.)
The like, in
C. P.

In the Common Pleas, the rule is “to shew cause, why it should not be referred to one of the prothonotaries, to tax the plaintiff’s costs, of and occasioned by the writ of *distringas* and *alias distringas* issued in this cause, to the sheriff of —, and also the costs of this application to the court ; and why the said sheriff should not be directed to sell so much of the issues levied by him, by virtue of the said writs, as will be sufficient to answer the said costs when taxed ; and why the said sheriff should not, with the monies arising from such sale, pay to the plaintiff or his attorney such costs, and return the residue of the said issues to the defendant, pursuant to the act of parliament in that behalf made and provided.”

In the Common Pleas.

A. B. plaintiff,

and

C. D. defendant.

CHAP. V.

(§ 8.)

Affidavit in support of last rule.

E. F. of — gentleman, attorney for the plaintiff in the above cause, maketh oath and saith, that the plaintiff's cause of tion is for goods sold^d and delivered by the said plaintiff to the said defendant (or as the case may be) ; and that the said defendant was duly summoned by the sheriff of —, on an original writ issuing out of his majesty's high court of Chancery, returnable on — last past, to appear in this honorable court, at the suit of the said plaintiff, as appears to this deponent by the return on the back of the said writ, made by the said sheriff of — ; and that the said defendant not appearing to the same, within the time limited by the rules of this honorable court, a *distringas* against the defendant's goods issued, on which the said sheriff of — caused to be levied and returned 40s. issues ; and that the said defendant not appearing to such *distringas*, an *alias distringas* issued on the — day of — instant, returnable on — next after —, on which the said sheriff, by virtue of a rule of this honorable court, levied and returned issues to the amount of —*l.*

Sworn, (&c.)

E. F.

— (to wit.) Appearance for the right honorable — Marquis (or Earl), &c. (or *C. D.* Esquire), having privilege of parliament, at the suit of *A. B.* to a writ of *distringas*, returnable on — wheresoever, &c.

(§ 9.)
Note of appearance for a peer, or member of the House of Commons.

— 18—.

In the King's Bench,
(or Common Pleas).

— term, in the — year of the reign of King
George the Third.

(§ 10.)
Beginning of declaration against a peer, or member of the House of Commons, by original.

— (to wit.) The right honorable — Marquis (or Earl) &c. (or *C. D.* Esquire,) having privilege of parliament, was summoned (or attached) to answer *A. B.* of a plea of trespass on the case, &c. (or as the plea is) ; and thereupon the said *A. B.* by *E. F.* his attorney complains, that whereas, (&c.)

CHAP. V. *Law & Markham.*

(§ 11.)

Beginning and conclusion of bill against a member of the House of Commons, in K. B.

— term, in the — year of the reign of King George the Third.

— (to wit.) *A. B.* complains of *C. D.* Esquire, (having privilege of parliament,) of a plea of trespass on the case, &c. (or as the plea is) : For that whereas, &c. (omitting the charge of fraud and deceit in the breach in *assumpsit*, and concluding as follows :)

And the said *A. B.* prays the process of our lord the king, to be made to him thereupon against the said *C. D.* according to the form of the statute in such case made and provided ; and it is granted to him, &c.

Pledges, (&c.)

(§ 12.)

The like, in C. P.

In the Common Pleas.

— term, (&c.)

To the justices of our lord the king of the bench.

— (to wit.) *A. B.* by *E. F.* his attorney, complains of *C. D.* Esquire, (having privilege of parliament,) of a plea, &c. (as in the last, with a similar conclusion.)

(§ 13.)

Beginning of bill against several defendants, one of them being a member, and the others in custody of the marshal, in K. B.

Law & Markham.

— term, (&c.)

— (to wit.) *A. B.* complains of *C. D. E. F.* and *G. H.* the said *C. D.* having privilege of parliament, and the said *E. F.* and *G. H.* being in the custody of the marshal of the *Marshalsea* of our lord the now king, before the king himself, of a plea of trespass on the case, &c. (or as the plea is) : For that whereas, &c. (to the end of the bill, concluding as before.)

(§ 14.)

Præcipe for writ of summons, in K. B.

— (to wit.) Writ of summons for *A. B.* against *C. D.* Esquire, (having privilege of parliament.) Case, for —l. upon promises, (or as the action is,) returnable on — next after —.

E. F. attorney.

— 18—.

(§ 15.)

Writ of summons, in K. B.

George the Third, (&c.) To the sheriff of — greeting : We command you, that you summon *C. D.* Esquire, (having privilege of parliament,) that he be before us at *Westminster*, on — next after —, to answer *A. B.* of a plea of trespass on the case, to the damage of the said *A. B.* of —l. (or as the plea is,) as he shall be able reasonably to shew, that thereof

thereof he ought to answer, and have there then this writ.

CHAP. V.

Witness Edward Lord Ellenborough, (&c.)

Law & Markham.

George the Third, (&c.) To the sheriff of — greeting: (§ 16.)
We command you, that you summon *C. D.* Esquire, (having The like, in C. P. privilege of parliament,) that he be before our justices at *Westminster*, on — next after —, to answer *A. B.* of a plea of trespass on the case, (or as the plea is): For that whereas, &c. (as in the bill throughout:) to the damage of the said *A. B.* of — *l.* as it is said; and have there then this writ. Witness Sir *Vicary Gibbs* knight, (&c.)

George the Third, (&c.) To the sheriff of — greeting: (§ 17.)
We command you, that you summon, &c. (as in the writ of Testatum summons. summons, to the word “answer,” and then as follows:) And whereupon our sheriff of — at a certain day now past, returned to us (or in C. P. to our justices) at *Westminster*, that the said *C. D.* had nothing in his bailiwick, by which he could be summoned; whereas it is testified in our said court before us, (or in our said court, omitting “before us” in C. P.) that the said *C. D.* may be summoned in your bailiwick; and have there then this writ. Witness, (&c.)

— (to wit.) *Distringas* for *A. B.* against *C. D.* Esquire, (§ 18.)
(having privilege of parliament.) Case, for — *l.* upon pro- Præcipe for distringas.
mises, (or as the action is,) returnable on — next after, —.
E. F. attorney.

— 18—.

George the Third, (&c.) To the sheriff of — greeting: (§ 19.)
We command you, that you distrain *C. D.* Esquire, (having Distringas. privilege of parliament,) by all his lands and chattels in your bailiwick, so that neither he, nor any one for him, do lay hands on the same, until you shall have another command from us in that behalf, and that you answer to us for the issues thereof, so that he be before us (or in C. P. before our justices) at *Westminster*, on — next after —, to answer *A. B.* in a plea of trespass on the case upon promises (or as the plea is; and in the Common Pleas, it is usual to copy the bill, as in the writ of summons, *supra*;) to the damage of the said *A. B.* of — *l.* (or as the plea is,) and to hear judgment thereupon for his many defaults; and have there then this writ. Witness, (&c.)

George

CHAP. V. *George the Third, (&c.) To the sheriff of — greeting :*
 (§ 20.) *Alins or pluries* We command you, as *before*, (or as *oftentimes*) we have com-
distingas. manded you, that you distrain, &c. (as before.)

(§ 21.) *Testatum dis-* *George the Third, (&c.) To the sheriff of — greeting :*
tingas. We command you, that you distrain, &c. (as in the *distingas* to the words, “many defaults,” and then as follows) : And whereupon our sheriff of — at a certain day now past, returned to us (or in C. P. to our justices) at *Westminster*, that the said *C. D.* had nothing in his bailiwick, by which he could be distrained ; whereas it is testified in our said court before us, (or in our said court, omitting “before us” in C. P.) that the said *C. D.* hath sufficient lands and chattels in your bailiwick, by which he may be distrained ; and have there then this writ. Witness, (&c.)

The declaration against a member of the House of Commons, in the King’s Bench, is nothing more than a copy of the bill, omitting the prayer of process at the end.

(§ 22.)
 Beginning of
 declaration,
 against a mem-
 ber of the
 House of Com-
 mons, after ap-
 pearance, in
 C. P.

In the Common Pleas.

term, in the year of the reign of king
George the Third.

(to wit.) Be it remembered, that on next after —, (the day of filing the bill,) in this same term, *A. B.* came into his majesty’s court of the bench here, by *E. F.* his attorney, and exhibited to the justices of the same court here, his certain bill against *C. D.* Esquire, (having privilege of parliament,) of a plea of trespass on the case, &c. (or as the plea is) ; and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard Roe* ; the tenor of which said bill follows in these words, that is to say : To the justices of our lord the king of the bench. — (to wit.) *A. B.* by *E. F.* his attorney, complains, &c. (copy the bill *verbatim*, leaving out the pledges.)

(§ 23.)
 The like, in
 Exchequer.

In the Exchequer of Pleas.

term, (&c.)

— (to wit.) *A. B.* a debtor to our sovereign lord the now king, comes before the barons of this Exchequer, on the — day

— day of — in this same term, by *E. F.* his attorney, and complains by bill against *C. D.* Esquire, (having privilege of parliament,) of a plea, &c. (as usual in the Exchequer, omitting the prayer of process at the end.)

CHAP. V.

As yet of — term, in the — year of the reign of king *George the Third.* Witness *Edward Lord Ellenborough.*

(§ 24.)
Entry of bill
and process
against a mem-
ber of the
House of Com-
mons, to save
the statute, in
K. B.

Law & Markham.

— (to wit.) Be it remembered, that on — next after — in this same term, before our lord the king at *Westminster*,* comes *A. B.* by *E. F.* his attorney, and brings into the court of our said lord the king, before the king himself now here, his certain bill against *C. D.* Esquire, having privilege of parliament, of a plea of trespass on the case, &c. (or as the plea is); and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard Roe*; which said bill follows in these words, (that is to say): — (to wit.) *A. B.* complains of *C. D.* Esquire, &c. (here copy the bill, to the words “and therefore he brings his suit, &c.” and then proceed as follows): And the said *A. B.* prays the process of our said lord the king, to be made to him thereupon against the said *C. D.* according to the form of the statute in such case made and provided; and it is granted to him, &c. whereby the sheriff of — is commanded, that he cause to be summoned the said *C. D.* having privilege of parliament, that he be before our said lord the king at *Westminster*, on — next after —, to answer the said *A. B.* of a plea of trespass on the case, to the damage of the said *A. B.* of —*l.* (or as the plea is), as he shall be able reasonably to shew that thereof he ought to answer; and that the said sheriff have there then the writ of our said lord the king, to him thereupon directed; the same day is given to the said *A. B.* there, &c. At which day, before our said lord the king at *Westminster*,* comes the said *A. B.* by *E. F.* his attorney, and offers himself against the said *C. D.* in the plea aforesaid; and the sheriff, to wit, — sheriff of the said county of — now here returns, that the said *C. D.* hath not any thing in his bailiwick, whereby he can be summoned; and the said *C. D.* doth not come.

(to

CHAP. V.
(§ 25.)
Note of ap-
pearance for a
corporation.

— (to wit.) Appearance for the Mayor, &c. at the suit
of *A. B.* to an original, returnable on —.
G. H. attorney.

(§ 26.)
Beginning of
declaration
against a cor-
poration.

In the King's Bench
(or Common Pleas).

— term, in the — year of the reign of king
George the Third.

— (to wit.) The Mayor, &c. were summoned (or attached)
to answer *A. B.* of a plea of trespass on the case, &c. (or as
the plea is;) and thereupon the said *A. B.* by *E. F.* his at-
* torney complains, that whereas the said Mayor, &c.

(§ 27.)
The like a-
gainst hundre-
dors, on the
statutes of hue
and cry, &c.

In the King's Bench
(or Common Pleas).

— term, (&c.)

— (to wit.) The men inhabiting within the hundred of
— in the county of — were attached to answer *A. B.* who
sues as well for our sovereign lord the king as for himself in
this behalf, of a plea of trespass and contempt, against the
form of the statute, &c. and thereupon the said *A. B.* who
sues as aforesaid, by *E. F.* his attorney, complains, that
whereas, &c.

N. B. On the riot or black act, &c. the plaintiff does not
sue *qui tam*.

CHAP. VI.

Of the CAPIAS by ORIGINAL; and PROCESS of OUT-LAWRY.

GEORGE the Third, (&c.) To the sheriff of — greeting: We command you, that you take *C. D.* late of — if he be found in your bailiwick, and him safely keep, so that you may have his body before us on — wheresoever we shall then be in *England*, (or in *C. P.* before our justices at *Westminster*, on —) to answer *A. B.* in a plea, for that whereas, &c. (in case; or in covenant, of a plea that he keep, &c. or in debt, of a plea that he render, &c. as in the original, to the words, “as it is said;”) and have therethis writ. Witness *Edward Lord Ellenborough*, (or in *C. P.* Sir *Vicary Gibbs* knight), at *Westminster*, the — day of — in the — year of our reign. (§ 1.)
Capias ad respondendum.

Bail by affidavit for —
E. F. Temple,
 Plaintiff's attorney (or agent).
 — 18—.

(§ 2.)
 Indorsement
 thereon.

George the Third, (&c.) To the sheriff of — greeting: We command you, as *before* (or as *oftentimes*) we have commanded you, that you take, (&c.) (§ 3.)
Alias or pluries capias.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you take *C. D.* late of, &c. (as in the *capias*, altering the return, to the words “as it is said;”) and whereupon our sheriff of — returned to us (or in *C. P.* to our justices at *Westminster*) at a certain day now past, that the said *C. D.* was not found in his bailiwick; whereas it is testified in our same court before us, (or in our same court, in *C. P.* omitting “before us,”) that the said *C. D.* lurks and wanders up and down in your county; and have there this writ. Witness, (&c.) (§ 4.)
Testatum capias.

George

CHAP. VI.

(§ 5.)
Non omittas ca-
pias.

George the Third, (&c.) To the sheriff of — greeting :
We command you, that you do not omit by reason of any liberty of the bailiff of the hundred of — in your county, but that you take *C. D.* late of — if he be found in your bailiwick, and him safely keep, so that you have his body before us on — wheresoever we shall then be in *England*, (or in C. P. before our justices at *Westminster*, on —) to answer *A. B.* in a plea, for that whereas, &c. (as in the previous process) ; and have there this writ. Witness, (&c.)

(§ 6.)
Writ of sum-
mons *ad re-
quendum simul*,
in an action by
executors.

George the Third, (&c.) To the sheriff of — greeting :
We command you, that you summon, by good summoners, *E. F.* late of — in your county —, which said *E. F.* together with *A. B.* are executors of the last will and testament of *G. H.* deceased, that he be before us on — wheresoever, &c. (or in C. P. before our justices at *Westminster*, on —) to prosecute, if he will, together with the said *A. B.* a certain plea of trespass on the case upon promises, (or as the plea is,) against *C. D.* late of — to the damage of the said *A. B.* and *E. F.* as executors as aforesaid, of — *l.* as it is said ; and have there the summoners, and this writ. Witness, (&c.)

(§ 7.)
Entry of sum-
mons and se-
verance.

As yet of — term, (&c.)

— (to wit.) The sheriff was commanded, that he should take *C. D.* late of —, and him safely keep, so that he might have his body before the lord the king at this day, to wit, on — wheresoever, (&c.) (or in C. P. before the justices here at this day, to wit, on —) to answer *A. B.* and *E. F.* excutors (&c.) in a plea of trespass on the case upon promises, (or as the plea is,) to the damage of the said *A. B.* and *E. F.* as executors as aforesaid, of — *l.* as it was said : And now here, at this day, come as well the said *A. B.* by — his attorney, as the said *C. D.* by — his attorney ; and the said *E. F.* (although solemnly called on the fourth day,) doth not come : Therefore let the said *E. F.* be summoned, that he be before the lord the king on — wheresoever, &c. (or in C. P. before the justices here on —) to prosecute, if he will, together with the said *A. B.* the plea aforesaid, against the said *C. D.* ; the same day is given to the said *A. B.* and *C. D.* at the same place. At which day, before the said lord the

the king at *Westminster*, (or in C. P. before the justices here,) come as well as the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; and the said *E. F.* (although solemnly called on the fourth day,) doth not come: And the sheriff, to wit — sheriff of — aforesaid, now here returns, that he hath summoned the said *E. F.* (&c.) and that the summoners of the said *E. F.* are *I. K.* and *L. M.* Therefore it is considered, that the said *A. B.* do prosecute alone, and without the said *E. F.* the plea aforesaid, against the said *C. D.* &c.

* *George the Third*, (&c.) To the sheriff of — greeting : (§ 8.)
 We command you, that you cause *C. D.* late of — to be *Exigi facias.*
 demanded from county-court to county-court, (or, if in *London*, from husting to husting), until, according to the law and custom of *England*, he be outlawed, if he do not appear; and if he do appear, then that you take him, and cause him to be safely kept, so that you may have his body before us on — wheresoever we shall then be in *England*, (or in C. P. before our justices at *Westminster*, on —,) to answer *A. B.* of a plea, &c. (as in the previous process, to the words “as it is said”); and whereupon you returned to us, (or in C. P. to our said justices at *Westminster*,) on, &c. (the return of the *pluries*) last past, that the said *C. D.* was not found in our bailiwick; and have there this writ. Witness *Edward Lord Ellenborough*, (or in C. P. *Sir Vicary Gibbs knight*,) at *Westminster*, (&c.)

By virtue of this writ to me directed, at my county-court held at — in and for the county of —, on — the — day of — (or if in *London*, “at the husting of pleas of land, holden in the *Guildhall* of the city of *London*, on — next after —”) in the year within-written, the within-named *C. D.* was a first time demanded, and did not appear: And at my county court held at — aforesaid, on — the — day of — in the year aforesaid, (or at the husting, &c.) the said *C. D.* was a second time demanded, and did not appear: And at my county court held at — afore-

* The process of outlawry, which follows, is confined to the King's Bench and Common Pleas; as the defendant cannot be outlawed in the Exchequer, that court having no jurisdiction by original writ.

said,

CHAP. VI. said, on — the — day of — in the year aforesaid, (or at the hustings, &c.) the said *C. D.* was a third time demanded, and did not appear: And at my county-court held at — aforesaid, on — the — day of — in the year aforesaid, (or at the hustings, &c.) the said *C. D.* was a fourth time demanded, and did not appear: And at my county-court held at — aforesaid, on — the — day of — in the year aforesaid, (or at the hustings, &c.) the said *C. D.* was a fifth time demanded and did not appear: Therefore by the judgment of — Esquire and — Esquire, coroners of our sovereign lord the king, for the county aforesaid, the said *C. D.* according to the law and custom of *England*, is outlawed.

The answer of — sheriff.

If all the county-courts or hustings are not holden in the time of the same sheriff, the return is as follows:

By virtue of this writ to me directed, &c. (stating the county-courts or hustings at which the defendant was demanded, in the time of the preceding sheriff, and concluding his return with "The answer of — sheriff;" then proceed on a new line, as follows):

* This writ, as above indorsed, was delivered to the under-named present sheriff, (or to the under-named present sheriffs,) by the above-named — sheriff, at his going out of office.

At my county-court, &c. (stating the county-courts or hustings at which the defendant was demanded, in the time of the succeeding sheriff, and concluding his return thus):

The answer, (&c.)

(§ 10.)
Allocatur exigent.

George the Third, (&c.) To the sheriff of — greeting: We command you, that allowing those — county-courts, (or if in *London*, those — hustings,) at which *C. D.* late of — was demanded, and did not appear, as you returned to us (or, in *C. P.* to our justices at *Westminster*) on, &c. (the return of the *exigent*) last met, you cause the said *C. D.* to be further demanded at your next county-court, (or hustings, if only one return is wanting, or if more than one, "from county-court to county-court," or "from hustings to hustings,") until, according to the law and custom of *England*, he be outlawed, if he do not appear, &c. (as in the *exigent*, altering the return, to the words "as it is said"); and have there

there this writ. Witness *Edward Lord Ellenborough*, (or in C. P. *Sir Henry Gibbs knight*), at *Westminster*, the — day of — in the — year of our reign. (The return of the *exigent*, if in term; if not, the *quarto die post*.)

CHAP. VI.

George the Third, (&c.) To the sheriff of — greeting: ^(§ 11.)
Whereas by our writ, we lately commanded you, that you ^{Writ of procla-}
should cause *C. D.* late of — to be demanded from county-
court to county-court, (or if in *London*, from husting to hust-
ing,) until, according to the law and custom of *England*, he
should be outlawed, if he did not appear; and if he did ap-
pear, then that you should take him, and cause him to be
safely kept, so that you might have his body before us on
— wheresoever we should then be in *England*, (or in C. P.
before our justices at *Westminster*, on —,) to answer *A. B.*
of a plea, &c. (as in the *exigent*, to the words “as it is
said”): Therefore we command you, that in pursuance of the
statute made in the thirty-first year of the reign of the Lady
Elizabeth late Queen of *England*, you cause the said *C. D.* to
be proclaimed upon three several days, according to the form
of that statute, one of which proclamations shall be made at
or near the most usual door of the church of the parish where
the said *C. D.* is dwelling, that he render himself unto you,
so that you may have his body before us, at the aforesaid time,
wheresoever we shall then be in *England*, (or in C. P. before
our justices at *Westminster*, at the aforesaid time,) to answer
to the said *A. B.* of the plea aforesaid; and have there this
writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of — greeting: ^(§ 12.)
Whereas by our writ, we lately commanded our sheriff of — ^{Writ of foreign}
that he should cause *C. D.* late of — to be demanded from ^{proclamation.}
county-court to county-court, (or if in *London*, from husting
to husting), until, according to the law and custom of *Eng-
land*, he should be outlawed, if he did not appear; and if he
did appear, then that he should take him, and cause him to
be safely kept, so that he might have his body before us on
— wheresoever we should then be in *England*, (or in C. P.
before our justices at *Westminster*, on —,) to answer to
A. B. of a plea, &c. (as in the *exigent*, to the words “as it is
said”): Therefore we command you, that in pursuance of the
statute

CHAP. VI. statute made in the thirty-first year of the reign of the Lady *Elizabeth* late Queen of *England*, you cause the said *C. D.* to be proclaimed upon three several days, according to the form of that statute, one of which proclamations shall be made at or near the most usual door of the church of the parish where the said *C. D.* is dwelling, that he render himself to our sheriff of —, so that he may have his body before us, at the aforesaid time, wheresoever we shall then be in *England*, (or in *C. P.* before our justices at *Westminster*, at the aforesaid time,) to answer to the said *A. B.* of the plea aforesaid; and have there this writ. Witness, (&c.)

(§ 13.)
Return to writ
of proclama-
tion.

By virtue of the within writ to me directed, I caused the within-named *C. D.* to be proclaimed three several days, according to the effect of the within-mentioned statute, as it is within commanded me.

The answer of — sheriff.

(§ 14.)
The like, ano-
ther way.

(Or more special, thus:) By virtue of the within writ to me directed, at my county-court held at — in and for the county of — on — the — day of — (or if in *London*, at the husting of pleas of land, holden in the *Guildhall* of the city of *London*, on — next after —) in the year within-written, I caused the said *C. D.* to be proclaimed a first time: And at the general Quarter Sessions of the Peace held at — aforesaid, on — the — day of — in the year aforesaid, I caused the said *C. D.* to be proclaimed a second time: And at the most usual door of the church of the parish of —, being the parish where the said *C. D.* is dwelling, on *Sunday* the — day of — in the year aforesaid, immediately after divine service, one month at the least before the within-named *C. D.* was demanded a fifth time, I caused the said *C. D.* to be proclaimed a third time, that he should render himself unto me, (or if a foreign proclamation, “unto the sheriff of —”) as within it is commanded me.

The answer of — sheriff.

(§ 15.)
Supersedens to
the exigent, quia
improvidē, &c.

George the Third, (&c.) To the sheriff of — greeting: Whereas by our writ, we lately commanded you, that you should cause *C. D.* late of — to be demanded from county-court to county-court, (or if in *London*, from husting to hust-
ing,)

ing,) until, according to the law and custom of *England*, he should be outlawed, if he did not appear; and if he did not appear, then that you should take him, and cause him to be safely kept, so that you might have his body before us, on — wheresoever we should then be in *England*, (or in C. P. before our justices at *Westminster*, on —), to answer to *A. B.* of a plea, &c. (as in the *exigent*, to the words, “as it is said”): But because the said *C. D.* before the issuing (or return) of our said writ of *exigent*, appeared in our court before us, (or in C. P. in our court before our justices aforesaid,) by — his attorney, and often offered himself to answer the said *A. B.* of the plea aforesaid, so that our said writ did not duly issue thereupon against the said *C. D.*; therefore we command you, that you altogether cease any further demanding the said *C. D.* or outlawing, taking, or any way molesting him, on that occasion; and have there this writ. Witness, (&c.)

I have altogether ceased from executing this writ, having received his majesty's writ of *superseas* for that purpose. (§ 16.)
Return to the exigent thereupon.
The answer of — sheriff.

George the Third, (&c.) To the sheriff of — greeting: (§ 17.)
We command you, that you do not omit by reason of any liberty of your county, but that you take *C. D.* late of — being outlawed in your said county, (or in the county where the outlawry was,) on — the — day of — (or in *London*, on — next after —) last past, at the suit of *A. B.* of a plea, &c. (and if the writ issue into a different county from that in which the defendant was outlawed, say, “as our sheriff of — returned to us, (or in C. P. to our justices) at *Westminster*, at a certain day now past,”) if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us, on — wheresoever we shall then be in *England*, (or in C. P. before our said justices at *Westminster*, on —), to do and receive what our court before us shall consider of him in this behalf; and have there this writ. Witness, (&c.)

George the Third, (&c.) To our chancellor of our county palatine of *Lancaster*, or to his deputy there, greeting: We command (§ 18.)
The like, in county-palatine.

CHAP. VI. command you, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of the same county, you cause the said sheriff to be commanded, that he do not omit by reason of any liberty of his county, but that he take *C. D.* late of — being outlawed, (&c.) if he shall be found in his bailiwick, and him safely keep, so that he may have his body before us, on — wheresoever we shall then be in *England*, (or in *C. P.* before our justices at *Westminster*, on —), to do and receive what our court before us shall consider of him in this behalf; and have there this writ. Witness, (&c.)

(§ 19.)
Special copias
utlagatum.

George the Third, (&c.) To the sheriff of — greeting : We command you, that you do not omit by reason of any liberty of your county, but by the oath of good and lawful men of your said county, you diligently inquire what goods and chattels, lands and tenements, *C. D.* late of — hath, or had in your bailiwick, the — day of — last past, or at any time afterwards, on which day he was outlawed in your county, (or in the county where the outlawry was,) at the suit of *A. B.* in a plea of, (&c.) as you have lately returned to us, (or in *C. P.* to our justices at *Westminster*; and if the writ issue into a different county from that in which the defendant was outlawed, say, “as our sheriff of — returned to us (or in *C. P.* to our justices) at *Westminster*, at a certain day now past,”) and by their oath cause the same to be extended and appraised, according to the true value thereof; and what you find by that inquisition, take into your hands, and cause to be safely kept, so that you answer to us for the true value and issues thereof; and having so extended and appraised the same, what you shall have done thereupon, make known to us, on — wheresoever we shall then be in *England*, (or in *C. P.* to our justices aforesaid, on —,) distinctly and plainly, under your seal, and the seals of those by whose oath you shall have made that extent and appraisement. And for that the said *C. D.* so being outlawed, conceals himself, and runs up and down in your county, in contempt of us, and in prejudice of our crown, as we are informed: We command you, that you take the said *C. D.* wheresoever he shall happen to be found in your bailiwick, as well within liberties as without, and keep him safely, so that

that you may have his body before us, at the aforesaid time, wheresoever we shall then be in *England*, (or in C. P. before our said justices at *Westminster*, at the aforesaid time, to do and receive what our said court before us (or in C. P. our said justices) shall consider of him in this behalf; and have there this writ. Witness, (&c.)

The execution of this writ appears in a certain inquisition to this writ annexed.

(§ 20.)

Return thereto,

— (to wit.) An inquisition indented, taken at — in the county of — on the — day of — in the — year of the reign of our sovereign lord *George* the third, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, before me — sheriff of the said county, by virtue of the king's writ to me directed, and to this inquisition annexed, upon the oath of *E. F. G. H.* &c. (setting out the names of all the jurors,) honest and lawful men of my bailiwick, who being sworn and charged to inquire of all such matters and things as in the said writ are mentioned and contained, on their oath say, that *C. D.* in the said writ to this inquisition annexed mentioned, or —, on which day he was outlawed in the said county, (or in the county of —, or in *London*,) at the suit of *A. B.* in a plea, (&c.) whereof he is convicted, was and yet is seized in his demesne as of fee, (or for the term of his life,) of and in one messuage and one close of pasture, with the appurtenances, called or known by the name of —, situate lying and being in the parish of — in the county aforesaid, containing by estimation — acres of land, and now in the tenure or occupation of — of the clear yearly value of —*l.* in all issues, beyond reprises; and also of and in one other close of pasture, (&c.) All and singular which said premises with the appurtenances above specified, I the said sheriff, by virtue of the said writ, on the said day of taking this inquisition, have taken and caused to be seized into the hands of our said lord the now king, as by the said writ I am commanded: And the jurors aforesaid, upon their oath aforesaid, further say, that the said *C. D.* at the time of the outlawry aforesaid, or at any time afterwards, had no other or more lands or tenements, nor hath he any goods or chattels in my bailiwick, which can

(§ 21.)
Inquisition,

CHAP. VI. be seized or taken into his majesty's hands, by virtue of the said writ, to the knowledge of the jurors aforesaid. In witness whereof, as well I the said sheriff, as the jurors aforesaid, have to this inquisition set our seals, the day and year, and at the place first above-mentioned.

If the defendant has goods, say, "that the said *C. D.* on the said — was and yet is possessed, as of his own proper goods and chattels, of and in the several goods and chattels particularly mentioned and set forth in the schedule or inventory thereof hereunto annexed; which said goods and chattels are worth, to be sold, the sum of — *l.* all which said goods and chattels, I the said sheriff, by virtue of the said writ, on the day of taking this inquisition, have seized and taken into his said majesty's hands, as by the said writ I am commanded."

(S. 22.)
Venditione ex-
positas.

George the Third, (Sc.) To the sheriff of — greeting:
 Whereas by a certain inquisition indented, taken before you, at — in your county, on, (Sc.) by virtue of our writ of special *capias utlagatum*, under the seal of our court of King's Bench, (or Common Pleas,) to you the said sheriff directed, whereby we commanded you to inquire what goods and chattels, lands and tenements, *C. D.* late of — had in your bailiwick, the — day of — then last past, or at any time afterwards, in which day he was outlawed in your said county, at the suit of *A. B.* in a plea of, (Sc.) it was found by the oath of *E. F.* and other good and lawful men of your said county, that *C. D.* to the said writ named, on the — day of — then last, on which day he became outlawed, and on the day of taking the said inquisition, was possessed, as of his own proper goods and chattels, of and in the several goods and chattels particularly mentioned and expressed in the schedule or inventory thereof hereunto annexed, which said goods and chattels were worth, to be sold, the sum of — *l.*; all which said goods and chattels you the said sheriff, by virtue of our said writ, on the day of taking the said inquisition, did seize and take into our hands, as by the said writ and inquisition taken thereupon, transcribed into our court of Exchequer, and there remaining in the custody of our remembrancer, more fully appears: And we being desirous to be satisfied of the

the value of the said goods and chattels in the said inquisition mentioned, as is just, command you, that you sell, or cause to be sold, the said goods and chattels, and every part thereof, for the best price that can be got for the same, and at the least for the said sum of — *l.* at which they were so appraised as aforesaid, so that you have the sum of money arising by such sale, before the barons of our Exchequer at *Westminster*, the — day of this instant — then and there to be paid to our use; and that you make then and there distinctly and plainly appear to our said barons, all that you shall do concerning the premises; and have then there this writ. Witness Sir *Alexander Thomson* knight, at *Westminster*, the — day of — in the — year of our reign.

By the said transcript, and by the Barons.

By virtue of this writ to me directed, I have caused the goods and chattels in the schedule or inventory herunto annexed mentioned, to be sold for the sum of — *l.* being the best price I could get for the same; which money I have before the barons of the king's Exchequer at *Westminster*, on the day within-mentioned, ready to be paid to his majesty's use, according to the command thereof.

(§ 23.)
Return thereto.

The answer of — sheriff.

To the right honourable the lords commissioners of his majesty's treasury.

(§ 24.)
Petition to the lords of the treasury, for leave of the outlaw's land.

The humble petition of *A. B.*

Sheweth,

That *C. D.* late of — being justly indebted to your petitioner in the sum of — *l.* for goods sold (&c.) your petitioner commenced an action against the said *C. D.* for the recovery thereof, where he has proceeded to outlawry; and that by virtue of a certain writ of special *capias utlagatum*, issued upon the return of the writ of *exigi factus*, against the said *C. D.* directed to the then sheriff of —, *E. F.* Esquire, then sheriff of the said county of — returned to the said writ of special *capias utlagatum* to him directed, an inquisition indented, taken at — in the said county, on the — day of — in the year of our Lord 18—, by which it was found, amongst other things, that the said *C. D.* on —, on which day

CHAP. VI. day he was outlawed at the suit of your petitioner, was seized in his demesne as of fee, (or for the term of his life,) of and in one messuage and one close of pasture with the appurtenances, called or known by the name of — situate, lying and being in the parish of — in the county aforesaid, containing by estimation — acres of land, and then in the tenure or occupation of — of the clear yearly value of — *l.* in all issues, beyond reprises, and also of and in one other close of pasture, &c. (as in the inquisition); and that the said sheriff, by virtue of the said writ, on the said day of taking that inquisition, had taken and caused to be seized into the hands of our said lord the now king, all and singular the said premises with the appurtenances, as by the said writ he was commanded; as by the return of the said writ of special *capias utlagatum*, now remaining of record in his majesty's court of Exchequer, may more fully and at large appear: And your petitioner further sheweth unto your lordships, that the said outlawry still remains in full force and effect, not vacated, superseded, reversed, or annulled; and that your petitioner's said debt, and the expences which he has necessarily been put to in prosecuting the said *C. D.* to outlawry, amount to a large sum of money, that is to say, to the sum of — *l.* and upwards, and that no part thereof has been paid or satisfied to your petitioner. Wherefore your petitioner humbly prays your lordship's favour and interposition, that by and with the consent of his majesty's attorney-general in this behalf obtained, a lease may be made to your petitioner, by and from his majesty's court of Exchequer, whereby your petitioner may be enabled to levy, take, collect and receive the issues and profits of the said outlaw's lands and tenements, so found by the said inquisition, to the value thereof respectively appraised and extended, till such times as sufficient thereout shall be made, collected, and levied, to satisfy your petitioner's said debt costs and charges, or until such time as the said *C. D.* shall cause the said outlawry, so had in due form of law against him, to be reversed or annulled. And your petitioner, as in duty bound, shall ever pray, &c.

A. B.

To

To the right honourable the lords commissioners of his majesty's treasury.

CHAP. VI.

(§ 25.)

The like, to be satisfied out of the produce of his goods.

The humble petition of *A. B.*

Sheweth,

That *C. D.* late of — being justly indebted to your petitioner in the sum of —*l.* for goods sold, &c. (as the fact is,) your petitioner commenced an action against the said *C. D.* for the recovery thereof, wherein he has proceeded to outlawry.

That a writ of special *capias ulagatum* having issued against the said *C. D.* out of his majesty's court of King's Bench (or Common Pleas) at *Westminster*, at the suit of your petitioner, an inquisition was taken thereon by the sheriff of —, whereby certain goods and chattels to the value of —*l.* mentioned in the said inquisition, were by the said sheriff seized and taken into his majesty's hands; which writ and inquisition being transcribed into his majesty's court of Exchequer at *Westminster*, a writ of *venditioni exponas* duly issued out of the said court, whereon the said sheriff hath returned, that he has by virtue thereof caused the goods and chattels in the said last writ mentioned to be sold, for the sum of —*l.* being the best price he could get for the same; which money he had before the barons of the king's Exchequer at *Westminster*, on the day in the said last writ mentioned, ready to be paid to his majesty's use, and which money now remains in the hands of the said sheriff.

That your petitioner's said debt, and the expences he has been at in the said proceedings, greatly exceed the sum so remaining in the sheriff's hands; and as his majesty is not concerned in interest, but his name only made use of by your petitioner, for the recovery of his said debt;

Your petitioner therefore most humbly prays your lordships, that his majesty's attorney-general may be authorized to consent, on behalf of his majesty, that the said sum of —*l.* may be paid to your petitioner, towards satisfaction of his said debt and costs.

And your petitioner, as in duty bound, shall ever pray, &c.

To

CHAP. VI. To the right honourable the lords commissioners of his majesty's treasury.

(§ 26.)
The like, more
concisely.

The humble petition of *A. B.*

Sheweth,

That *C. D.* late of — being justly indebted to your petitioner in the sum of — *l.* your petitioner did at a considerable expence, prosecute the said *C. D.* to an outlawry; and by virtue of a writ of special *capias utlagatum*, directed to the sheriff of —, certain goods of the said *C. D.* were seized and taken into his majesty's hands; which goods were afterwards sold by the said sheriff, by virtue of a writ of *venditioni exponas*, for the sum of — *l.* and the money thereupon raised still remains in the hands of the said sheriff.

That your petitioner's said debt, and the expence he has been at in prosecuting the said outlawry, greatly exceed the sum so remaining in the hands of the said sheriff;

Wherefore your petitioner most humbly prays your lordships, that the money so levied as aforesaid, may be paid over to your petitioner.

And your petitioner shall ever pray, &c.

(§ 27.)
Reference
thereon, to
their solicitor.

Whitehall, Treasury Chamber,
— day of — 18—.

The right honourable the lords commissioners of his majesty's treasury are pleased to refer this petition to — esquire, (solicitor to the treasury,) who is to consider the same, and report to their lordships a true state of the petitioner's case, together with his opinion what is fit to be done therein.

(§ 28.)
Certificate of
clerk in court.

These are to certify, that in — term, in the — year of the reign of his present majesty king *George* the third, a transcript of an outlawry was returned and filed in this court, against *C. D.* late of — outlawed in — at the suit of *A. B.* in a plea of trespass on the case, (or as the plea is,) by which transcript it appears, that several goods and chattels of the said *C. D.* were seized into his majesty's hands by — esquire, then sheriff of the said county of — by virtue of a special *capias utlagatum*, in the said transcript specified; and I further certify, that a writ of *venditioni exponas* has issued for

for selling the said goods and chattels so seized, whereon the said sheriff hath returned, that he hath sold the same for the sum of —*l.* CHAP. VI.

In the King's Bench,
(or Common Pleas.)

A. B. plaintiff,
and
C. D. defendant. (§ 29.)
Affidavit of
plaintiff's debt
and costs.

A. B. of — maketh oath and saith, that the above-named *C. D.* is justly and truly indebted unto this deponent in the sum of —*l.* according to the annexed account, and also in the further sum of —*l.* for costs paid to Mr. — this deponent's solicitor, in prosecuting the outlawry in this cause against the said *C. D.*

To the right honourable the lords commissioners of his majesty's treasury. (§ 30.)
Report on re-
ference.

May it please your lordships,

In humble obedience to your lordships' commands, signified to me by Mr. — I have considered of the annexed petition of *A. B.* setting forth, that *C. D.* &c. (reciting the whole of the petition).

And I do most humbly certify to your lordships, that I have received satisfaction as to the truth of all the allegations in the said petition contained, as well by sight of the several records thereby referred to, and a certificate of the said outlawry's being transcribed into the office of his majesty's remembrancer of the Exchequer, signed by Mr. — one of the attornies of that office, as by the affidavit of the petitioner, whereby it appears to me, that the said *C. D.* is justly indebted to the petitioner in the sum of —*l.* for goods sold, (&c.)

And it appearing by the affidavit of the said petitioner, that his said debt, with the several charges he has been already put to in outlawing the said *C. D.* do exceed the sum levied by the sheriff; and as the petitioner must still necessarily be put to a further expence, I am most humbly of opinion, that it may be proper for your lordships to send your warrant to his majesty's attorney-general, authorizing him to consent to an order of his majesty's court of Exchequer, for — esquire,
the

CHAP. VI. the present sheriff of the county of — to pay over the said sum of — *l.* now remaining in his hands, after deducting the sheriff's poundage for levying the same, and other incidental charges, unto the petitioner for his own use, towards satisfaction of his said debt and costs, whenever a motion shall be made in the said court of Exchequer for that purpose. All which is nevertheless most humbly submitted to your lordships' superior judgment.

— 18 —

(§ 31.)
Warrant for
the attorney-
general to con-
sent to an order
for payment of
the money.

George R.

WHEREAS we are given to understand, that there is remaining in the hands of — esquire, the present sheriff of the county of — the sum of — *l.* for so much money levied by him on the several goods belonging to *C. D.* which were seized into our hands, by virtue of an inquisition taken by virtue of a writ of *capias utlagatum*, issued out of our court of King's Bench, (or Common Pleas,) against the said *C. D.* at the suit of *A. B.* for the recovery of a debt due and owing to him from the said *C. D.*: And whereas it further appears by reports, certificates, and other proper testimonies, which the commissioners of our treasury have laid before us, that the debt due and owing to the said *A. B.* from the said *C. D.* together with the costs which he hath been put to in carrying on the said prosecution against the said *C. D.* for recovery of the said debt, doth exceed the said sum of — *l.* remaining in the hands of the said sheriff as aforesaid: To the end, therefore, that the said *A. B.* may have and receive some recompence and satisfaction towards his said debt, and the charges he hath been put to in suing for the same; our will and pleasure is, and we do hereby authorize and direct you to consent and agree, that so much of the said sum of — *l.* as doth or shall remain in the hands of the said sheriff, after deducting the usual poundage for levying the same, be paid over to the said *A. B.* towards satisfaction of his said debt and costs accordingly, whenever he by his counsel learned in the law shall think fit to move our court of Exchequer for an order for that purpose; and we do also authorize and direct you to do, or cause to be done, such further or other acts, as our said court of Exchequer upon such motion shall or may judge necessary for rendering our intentions herein most firm, valid and effectual:

fectual ; and forth^{do} doing, this shall be your warrant. Given CHAP. VI.
at our court at *Saint James's*, the — day of — in the —
year of our reign.

By his majesty's command.

To our trusty and well beloved Sir }
William Garrow knight, our at- }
torney-general.

— the — day of — 18—. (\$ 32.)

Between the king and *C. D.* outlawed at the suit of *A. B.* Order for the
sheriff to pay
the money to
the prosecutor.
upon an outlawry. Upon the motion of Mr. — of counsel
for *A. B.* informing the court, that the said *C. D.* having been
prosecuted to an outlawry by the said *A. B.* upon an action of
trespass on the case, in his majesty's court of King's Bench,
(or Common Pleas), a writ of special *capias utlagatum* there-
upon issued against the said defendant, under the seal of the
said court, directed to the sheriff of —; by virtue whereof,
the said sheriff seized by inquisition several goods and chat-
tels belonging to the said defendant, appraised at —*l.*; and
further informing the court, that the said writ of *capias utla-*
gatum and inquisition being transcribed into this court, a writ
of *renditioni exponas*, under the seal of this court, issued on
the — day of — last, for selling the said goods, return-
able the — day of —, at which time, — esquire, the
present sheriff of — returned the said writ, and certified
that he had sold the said goods and chattels for the said sum
of —*l.* It was therefore prayed by the said Mr. — that the
said — esquire, or his undersheriff, might forthwith pay to
the said *A. B.* or his order, the said sum of —*l.* towards sa-
tisfaction of the debt due from the said defendant to the said
prosecutor: Whereupon, and on hearing Sir *William Garrow*
knight, his majesty's attorney-general, who consented thereto on
the behalf of his majesty, it is ordered by the court as prayed;
the said sheriff first deducting out of the said —*l.* the usual
poundage.

George the Third, by the grace of God, of the united (\$ 33.)
Subpena.
kingdom of *Great Britain* and *Ireland* king, defender of the
faith. To — esquire, sheriff of our county of —, or to
his under-sheriff, greeting: We command you, that laying
aside all excuses, you obey, fulfil and perform all and every
matter

CHAP. VI. matter and thing specified in an order of our court of Exchequer at *Westminster*, made in a cause in our said court depending between us and *C. D.* outlawed at the suit of *A. B.* upon an outlawry; the tenor of which order, for your fuller information therein, is hereto annexed; and this you are not to omit, under the penalty of one hundred pounds, which we shall cause to be levied upon your goods and chattels, lands and tenements, for our use, if you neglect this our command. Witness Sir *Alexander Thomson* knight, at *Westminster*, the — day of — in the — year of our reign. By the said order, made the same day; and by the barons.

(§ 34.)
Special entry
of process to
outlawry, plea
of no procla-
mation, and
outlawry re-
versed there-
pon, in K. B.

— (to wit.) *A. B.* by — his attorney, offered himself on the fourth day against *C. D.* late of — of a plea, &c. (as in the *capias*, to the words “as it is said,”) and the said *C. D.* did not come: Therefore, as before, the sheriff was commanded, that he should take the said *C. D.* if, &c. and the sheriff thereupon returned, that he was not found, &c. Therefore, as oftentimes, let the said *C. D.* be taken, that he be before our lord the king on — wheresoever, &c. At which day before our said lord the king at *Westminster*, came the said *A. B.* by his attorney aforesaid, and offered himself on the fourth day against the said *C. D.* of the plea aforesaid; and the said *C. D.* did not come: Therefore, as oftentimes, it was commanded to the sheriff, that he should take the said *C. D.* if, &c. and the sheriff returned that he was not found, &c. Therefore the sheriff was commanded, that he should cause the said *C. D.* to be demanded from county-court to county-court, (or in *London*, from husting to husting), until he should be outlawed, if he did not appear; and if, &c. then that he should take him, and him safely keep, so that he might have his body before our lord the king on — wheresoever, &c. to answer the said *A. B.* of the plea aforesaid: It was also commanded to the sheriff, that in pursuance of the statute in such case made and provided, he should cause the said *C. D.* to be proclaimed upon three several days, according to the form of that statute, that he should render himself to the said sheriff, so that he might have his body before our lord the king at the aforesaid time, to answer to the said *A. B.* of the plea aforesaid: And be
it

it known, that the writ of our said lord the king thereupon, CHAP. VI.
on, &c. (the teste of the *exigent*) in this same term, was delivered of record to the deputy sheriff of the county aforesaid, in due form of law to be executed, &c. At which said — before our said lord the king at *Westminster*, came the said *A. B.* by his attorney aforesaid; and the sheriff of — namely —, returned, that at the county-court held at — in and for the county of —, on — the — day of — (or in *London*, at the husting of pleas of land, holden at the *Guildhall* of the city of *London*, on — next after —) in the year, (&c.) the said *C. D.* was a first time demanded, and did not appear: And at the county-court (or husting), &c. (as in the return,) and he did not appear: Therefore the said *C. D.* is outlawed: And afterwards, to wit, on — then next following, before our said lord the king at *Westminster*, comes the said *C. D.* in his own proper person, and renders himself to the prison of the marshal of the court of our said lord the king, before the king himself here, on occasion of the outlawry aforesaid;* and immediately says, that no writ of our said lord the king of proclamation, according to the form of the statute of the thirty-first year of the reign of the Lady *Elizabeth*, late Queen of *England*, in that case made and provided, issued against the said *C. D.* in the plea aforesaid, whereby the outlawry aforesaid, against the said *C. D.* in form aforesaid pronounced and had, is by the said statute void, and of no force or effect in law; and this he is ready to verify, wherefore he prays judgment, and that the outlawry aforesaid against him the said *C. D.* in form aforesaid pronounced and had, may be revoked, annulled and altogether held for nothing, and that he may be restored to all things which he hath lost on occasion of the said outlawry: And the said *C. D.* according to the form of the statute in that case made and provided, finds sufficient bail, to wit, *E. F.* of — and *G. H.* of —. And now here at this day come the bail aforesaid, and each of them for himself severally acknowledges to owe to the said *A. B.* —*l.* which said several sums of —*l.* they grant, and each of them for him-

* This was the form used before the statute 4 & 5 W. & M. c. 18. § 3. when it was necessary that the defendant should appear in person to reverse an outlawry. Since the above statute, the form is as follows. "Afterwards, (&c.) comes the said *C. D.* by — his attorney, and immediately says," (&c.)

CHAP. VI. self grants, shall be made of their and each of their lands and chattels, and levied to the use of the said *A. B.* on condition that the said *C. D.* shall appear and answer the said *A. B.* to a new original writ, by the said *A. B.* to be prosecuted for the cause in the said writ mentioned, and shall pay the condemnation which shall be recovered, if the said *A. B.* shall prosecute his suit within two terms, &c. Whereupon the aforesaid writ being seen, and the file of writs of the return of the said writ of *exigi facias* being searched for the proclamation aforesaid, it manifestly appears to the same court now here, that the allegation of the said *C. D.* above made for his discharge from the outlawry aforesaid, is true: Therefore it is considered, that the outlawry aforesaid against the said *C. D.* in form aforesaid pronounced and had, be revoked, and that the said *C. D.* be discharged from the outlawry aforesaid, and be in no-wise molested or aggrieved on that occasion, but go thereof quit, and that the said *C. D.* be restored to all things which he hath lost on occasion of the outlawry aforesaid, &c.

(§ 35.)
Supersedes upon the reversal of an outlawry, for want of proclamations.

George the Third, (&c.) To the sheriff of — greeting: Whereas by our writ we lately commanded you, that you should not omit by reason of any liberty of your county, but by the oath of honest and lawful men, &c. (reciting the writ of special *capias ullagatum*, to the words, “to do and receive what our court before us should consider of him in that behalf:”) And because it sufficiently appears to us of record, in our court before us, (or in C. P. before our justices at *Westminster*,) that the outlawry aforesaid is reversed for want of proclamations, according to the form of the statute in that case made and provided; and that the said *C. D.* thereupon came here into our court before us, (or in C. P. before our justices aforesaid,) and found sufficient bail to answer to the said *A. B.* upon a new original writ to be brought by the said *A. B.* within two terms next after the reversal of the outlawry aforesaid, and to satisfy the condemnation, if the said *C. D.* should be convicted: Therefore we command you, that if you have taken the goods and chattels of the said *C. D.* By virtue of the writ aforesaid, you cause them to be re-delivered to the said *C. D.* without delay: We also command you, that you wholly cease from taking the said *C. D.*

attaching

attaching, imprisoning, or any-wise molesting him on the occasion aforesaid; and if you have taken him on that occasion, and no other, then that you cause him to be set at liberty without delay, at your peril. Witness, (&c.)

George the Third, (&c.) To the sheriff of — greeting: Whereas by our writ, we lately commanded you, &c. (as in the preceding form, to the words, “consider of him in that behalf.”) And because the said *C. D.* by the assent of the attorney of the said *A. B.* came into our court before us, (or in C. P. before our justices at *Westminster*,) and found sufficient bail to answer to the said *A. B.* of the plea aforesaid, and to satisfy the said *A. B.* all damages, costs and charges in that behalf to be recovered, if it should happen that the said *C. D.* should be convicted in the plea aforesaid, and did not satisfy the said damages, costs and charges, or render himself to the prison of the Marshal of the Marshalsea of our court before us (or in C. P. to our prison of the Fleet) on that occasion: Therefore we command you, &c. (as in the preceding form, to the end).

(§ 36.)
Aliter, by consent of the plaintiff's attorney, on the defendant's putting in bail,

That his majesty's hands be removed from the possession of the premises in the inquisition mentioned; and that the said *C. D.* (the outlaw or representative) be restored to his possession thereof, together with the rents, issues and profits thereof, which have not as yet been answered to his said majesty; and (in case a lease has been granted) that the said lease in form aforesaid made be void, and of no effect; and that as well the said — late sheriff of the county of — as all others who have been, now are, or hereafter shall be sheriffs of the said county, shall be discharged in their accounts towards his said majesty, his heirs and successors, as well of the rents and profits of the said premises, as of the said annual rent of — which have not been answered to his said majesty; and lastly, that the said *C. D.* as to the said premises, may be dismissed the court, by reason of the said confession, and other the premises.

(§ 37.)
Judgment in the Exchequer, on the reversal of an outlawry, or death of the outlaw.

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* lately in our court before us, by our writ, impleaded *C. D.* late of — of a plea, (&c.) as it is said; and

(§ 38.)
Scire facias, upon the pardon of an outlawry by the king,

the

CHAP. VI. the said *C. D.* because he did not appear in our court before us, (or in C. P. before our justices at *Westminster*.) to answer the said *A. B.* thereupon, according to the law and custom of *England*, was put in *exigent* in your county to be outlawed, and was on that occasion outlawed, as appears to us of record : And we, being moved with pity, have pardoned the aforesaid outlawry, and granted to him our firm peace thereupon ; nevertheless, so that he stand rightly in our court before us, (or in C. P. before our said justices at *Westminster*.) in respect of this outlawry, according to the form of the statute in such case made and provided : And because it is necessary and expedient before the said *C. D.* quietly withdraws from our court before us, (or in C. P. before our justices aforesaid,) that the said *A. B.* be warned : Therefore we command you, that by honest and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us on — wheresoever we shall then be in *England*, (or in C. P. before our said justices at *Westminster*, on —) to prosecute further his plea aforesaid against the said *C. D.* if he will, and further to do and receive what our court before us (or in C. P. our court, omitting “ before us”) shall consider of him in this behalf ; and have there the names of those by whom you shall so make known to him, and this writ. Witness, (&c.)

(§ 30.)
Scire facias, upon the pardon of an outlawry by statute.

George the Third, (&c.) To the sheriff of — greeting : Whereas by our writ we lately commanded you, that you should not omit by reason of any liberty of your county, but that you should take *C. D.* late of — being outlawed at — in your county, on — at the suit of *A. B.* of a plea, (&c.) if he should be found in your bailiwick, and him safely keep so that you might have his body before us on — wheresoever we should then be in *England*, (or in C. P. before our justices at *Westminster*, on —) to do and receive, (&c.) : But because by a certain act, made in our parliament holden at *Westminster* in the county of *Middlesex*, on — the said outlawry against the said *C. D.* in form aforesaid pronounced and had, was pardoned to the said *C. D.* ; nevertheless, so that the said *C. D.* prosecute in our court before us, (or in C. P. before our said justices at *Westminster*.) our writ of *scire facias* to warn the said *A. B.* of the plea aforesaid,

said; if the said *A. B.* will complain against him; and because it is expedient and necessary that the said *A. B.* for his interest in this behalf be warned, before any further proceedings are had for discharging the said *C. D.* of the outlawry aforesaid: Therefore we command you, that by honest and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us, on ——— wheresoever we shall then be in *England*, (or in *C. P.* before our said justices at *Westminster*, on ———) to prosecute his plea aforesaid against the said *C. D.* if he shall be willing; and have there the names of those by whom you shall so make known to him, and this writ. Witness, (&c.)

At which said ———, before our said lord the king at *Westminster*, came (or in *C. P.* came here,) the said *C. D.* in his proper person; and the sheriff of the county aforesaid, to wit, ——— esquire, by virtue of the said writ to him thereupon directed, returned, that he by *E. F.* and *G. H.* honest and lawful men of his bailiwick, had made known to the said *A. B.* to be before our lord the king at the day aforesaid, wheresoever, &c. (or in *C. P.* before the justices of our said lord the king at *Westminster*, at the day aforesaid,) to prosecute his plea against the said *C. D.*; and the said *A. B.* although at that day solemnly called and so warned, did not come, but made default: Therefore he and his pledges to prosecute, to wit, *John Doe* and *Richard Roe*, are thereupon in mercy, &c. and let the said *C. D.* go thereof without day, &c. and let the pardon of our lord the king, according to the form of the aforesaid statute, be allowed to the said *C. D.* &c.

(§ 40.)
Entry of return
thereto.

*

CHAP. VII.

Of the BILL of MIDDLESEX and LATITAT, and SUBSEQUENT PROCESS therein in the KING'S BENCH; of the CAPIAS QUARE CLAUSUM FREGIT, &c. in the COMMON PLEAS; and of the VENIRE FACIAS AD RESPONDENDUM, QUO MINUS, and SUBPÆNA, &c. in the EXCHEQUER.

(§ 1.)
Querritur, or
plaint in tres-
pass, in K. B.

Middlesex, (to wit). *A. B.* complains of *C. D.* For that the said *C. D.* on the — day of — in the — year of the reign of our lord the now king, with force and arms, &c. broke and entered the close of the said *A. B.* at — in the county aforesaid; and other wrongs to him did, to the damage of the said *A. B.* of — l. and against the peace of our said lord the now king, &c.

John Doe,
and
Richard Roe.

Pledges to prosecute,

(§ 2.)
Attachment
thereon.

The sheriff is commanded, that he attach *C. D.* so that he be before the lord the king at *Westminster*, on — next after — to answer *A. B.* of a plea of trespass; and that he have there then this precept.

By Bill. Law & Markham.

(§ 3.)
Return of attor-
chialis est.

The within-named *C. D.* is attached by } *E. F.*
pledges - - - - - } *G. H.*
The answer of — sheriff.

(§ 4.)
Return of nihil
habet.

The within-named *C. D.* hath nothing in my bailiwick, by which he can be attached.

The answer of — sheriff.

(§ 5.)
Precipe for bill
of Middlesex,
not bailable.

Middlesex, (to wit). Bill for *A. B.* against *C. D.* return-
able on — next after —.

E. F. attorney.
— 18—
Middle-

Middlesex, (to wit). The sheriff is commanded to take *C. D.* and *Richard Roe*, if they be found in his bailiwick, and them safely keep, so that he may have their bodies before the lord the king at *Westminster*, on — next after —, to answer *A. B.* of a plea of trespass; And there then this precept.

By Bill. *Lat. Markham.*

E. F. Temple,
Plaintiff's attorney, (or agent).

— 18—

(§ 7.)
Indorsement
thereon.

● *Middlesex*, (to wit). *Alias* (or *pluries*) bill for *A. B.* against *C. D.* returnable on — next after —.

E. F. attorney.
— 18—

(§ 8.)
*Præcipe for alias
or pluries bill of
Middlesex.*

Middlesex, (to wit). The sheriff is commanded, as before he was (or as oftentimes before he hath been) commanded, to take *C. D.* and *Richard Roe*, &c. (as in the bill of *Middlesex*, altering the return).

— (to wit). *Latitat* for *A. B.* against *C. D.* *Trespass*, returnable on — next after —.

E. F. attorney.
— 18—

(§ 10.)
*Præcipe for latit-
tat, not bail-
able.*

George the Third, (&c.) To the sheriff of — (the county into which the writ issues,) greeting: Whereas we lately commanded our sheriff of *Middlesex*, that he should take *C. D.* and *Richard Roe*, if they should be found in his bailiwick, and them safely keep, so that he might have their bodies before us at *Westminster*, at a certain day now past, to answer *A. B.* of a plea of trespass; and our said sheriff of *Middlesex* at that day returned to us, that the said *C. D.* and *Richard Roe* were not found in his bailiwick; whereupon, on the behalf of the said *A. B.* it is sufficiently testified in our court before us, that the said *C. D.* and *Richard Roe* do run up and down, and secrete themselves in your county: Therefore we command you, that you take them, if they shall be found in your bailiwick, and them safely keep, so that you may

(§ 11.)
*Latitat, not
bailable.*

CHAP. VII. have their bodies before us at *Westminster*, on — next after — to answer the said *A. B.* of the plea aforesaid; and have there then, this writ. Witness *Edward* Lord *Ellenborough* at *Westminster*, the — day of — in the — year of our reign.

Law & Markham.

Indorsement thereon, as before, p. 67.

(§ 12.)
Direction of *latitat*, or other process, to the sheriff or sheriffs of a city.

To the sheriff (or sheriffs) of our city of —.

And note; the cities of *Canterbury*, *Exeter*, *Litchfield*, and *Worcester*, have only one sheriff; but the cities of *Bristol*, *Chester*, *Coventry*, *Gloucester*, *Lincoln*, *London*, *Norwich*, and *York*, have two sheriffs; and the process should be directed accordingly.

(§ 13.)
The like, to the sheriff or sheriffs of a town and county.

To the sheriff (or sheriffs) of our town and county of —.

And note; the towns and counties of *Kingston upon Hull*, *Newcastle upon Tyne*, *Poole* and *Southampton*, have only one sheriff; but the town and county of *Nottingham* has two sheriffs.

(§ 14.)
The like, to the coroner.

To the coroner of our city of *London*, (or coroners of our county of —).

(§ 15.)
The like, to a county-palatine.

To our chancellor of our county-palatine of *Lancaster*, or his deputy there.

To our chamberlain of our county-palatine of *Chester*, or his deputy there.

To the reverend father in God — by divine Providence lord bishop of *Durham*, or to his chancellor there.

(§ 16.)
The like, to the cinque-ports.

To our constable (or lieutenant) of our castle of *Dover*, or to his deputy there.

(§ 17.)
The like, to *Berwick*.

To the mayor and bailiffs of our borough of *Berwick upon Tweed*.

— (to

— (to wit). *Alias* (or *pluries*) *capias* for *A. B.* against **CHAP. VII.**
C. D. Trespass, returnable on — next after —.

E. F. attorney.

— 18—.

(§ 18.)

Præcipe for
alias or *pluries*
capias, not bail-
able, in K. B.

George the Third, &c. To the sheriff of — greeting :
We command you, as *before* (or “as *oftentimes* before”) we
have commanded you, that you take *C. D.* and *Richard Roe*,
if they shall be found in your bailiwick, and them safely
keep, so that you may have their bodies before us at *West-*
minster, on — next after —, to answer *A. B.* of a plea of
trespass ; and have there then this writ. Witness, (&c.)

(§ 19.)

Alias or *pluries*
capias, not bail-
able, in K. B.

Middlesex, (to wit). Bill for *A. B.* against *C. D.* Case, for
— *l.* on promises, (or as the action is,) returnable on —
next after —.

(§ 20.)

Præcipe for
bailable bill of
Middlesex.

E. F. attorney.

— 18—.

Oath for — *l.* by affidavit filed.

Middlesex (to wit). The sheriff is commanded to take *C. D.*
and *Richard Roe*, if they shall be found in his bailiwick, and
them safely keep, so that he may have their bodies before
the lord the king at *Westminster*, on — next after —, to
answer *A. B.* of a plea of trespass, and also to a bill of the
said *A. B.* to be exhibited against the said *C. D.* for — *l.*
upon promises, according to the custom of the court of the
said lord the king, before the king himself ; and that he have
there then this precept.

(§ 21.)

Bailable bill of
Middlesex.

By Bill, *Law & Markham.*

Bail by affidavit for — *l.*

F. Temple,

Plaintiff's attorney, (or agent).

— 18—.

(§ 22.)

Indorsement
thereon.

Middlesex, (to wit). *Alias* (or *pluries*) bill for *A. B.* against
C. D. Case, for — *l.* on promises, (or as the action is,) re-
turnable on — next after —.

(§ 23.)

Præcipe for
alias or *pluries*
bill of *Middle-*
sex, bailable.

E. F. attorney.

— 18—.

Oath for — *l.* by affidavit filed.

Middlesex,

CHAP. VII. *Middlesex*, (to wit). The sheriff is commanded, as before
 (§ 24.) *Alias or pluries*
bill of Middle- he was (or "as oftentimes before he hath been") command-
sex, bailable. ed, to take *C. D.* and *Richard Roe*, &c. (as in the bill of *Mid-*
dleser, altering the return.)

(§ 25) *Middlesex*, (to wit). *Non omittas* bill for *A. B.* against
Præcipe for non *C. D.* Case, for — *l.* on promises, (or as the action is,) *omittas bill of*
of Middlesex. returnable, (&c.)

E. F. attorney.

— 18—.

Oath for — *l.* by affidavit filed.

(§ 26) *Middlesex*, (to wit). The sheriff is commanded, that he
Non omittas bill omit not by reason of any liberty in his county, but that he
of Middlesex. enter the same, and take *C. D.* and *Richard Roe*, if they
 shall be found in his bailiwick, and them safely keep, so that
 he may have their bodies before the lord the king at *West-*
minster, on — next after —, to answer *A. B.* of a plea
 of trespass, and also to a bill, &c. (as before)

By Bill. *Law & Markham.*

Indorsement as before, p. 67.

(§ 27) — (to wit). *Latitat* for *A. B.* against *C. D.* Case, for
Præcipe for — *l.* on promises, returnable on — next after —.
bailable lat tat.

E. F. attorney.

— 18—.

Oath for — *l.* by affidavit filed.

(§ 28) *George the Third*, (&c) To the sheriff of — greeting:
Bailable latitat. Whereas we lately commanded our sheriff of *Middlesex*, that
 he should take *C. D.* and *Richard Roe*, if they should be
 found in his bailiwick, and them safely keep, so that he
 might have their bodies before us at *Westminster*, at a certain
 day now past, to answer *A. B.* of a plea of trespass, and also
 to a bill of the said *A. B.* to be exhibited against the said
C. D. for — *l.* upon promises, according to the custom of
 our court before us; and our said sheriff of *Middlesex* at that
 day returned to us, that the said *C. D.* and *Richard Roe* were
 not found in his bailiwick; whereupon, on behalf of the said
A. B. it is sufficiently testified in our said court before us,
 that the said *C. D.* and *Richard Roe* do run up and down,

and secrete themselves in your county: Therefore we com- **CHAP. VII.**
mand you, that you take them, if they shall be found in your
bailiwick, and safely keep them, so that you may have their
bodies before us at *Westminster*, on — next after —, to
answer the said *A. B.* of the plea and the bill aforesaid;
and have there then this writ. Witness *Edward Lord Ellen-*
borough, at *Westminster*, the — day of — in the —
year of our reign.

Law & Markham.

Bail by affidavit for —l.

E. F. Temple,

Plaintiff's attorney, (or agent).

— 18—.

(§ 29.)
Indorsement
thereon.

— (to wit) *Alias* (or *pluries*) *capias* for *A. B.* against *C. D.* Case, for —l. on promises, (or as the action is,) re-
turnable on — next after —.

(§ 30.)
Præcipe for
alias or *pluries*
capias, bailable,
in K. B.

E. F. attorney.

— 18—.

Oath for —l. by affidavit filed.

George the Third, (&c.) To the sheriff of — greeting: We command you, as before (or “as oftentimes before”) we
have commanded you, that you take *C. D.* and *Richard Roe*, if
they shall be found in your bailiwick, and them safely keep, so
that you may have their bodies before us at *Westminster*, on
— next after —, to answer *A. B.* of a plea of trespass, and
also to a bill of the said *A. B.* against the said *C. D.* for —l.
upon promises, according to the custom of our court before us
to be exhibited; and have there then this writ. Witness, (&c.)

(§ 31.)
Alias or *pluries*
capias, bailable,
in K. B.

to wit). *Non omittas* *capias* for *A. B.* against *C. D.* Case, for —l. on promises, (or as the action is,) return-
able, (&c.)

(§ 32.)
Præcipe for
non omittas *ca-*
pias, bailable,
in K. B.

E. F. attorney.

— 18—.

Oath for —l. by affidavit filed.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you omit not by reason of any li-
berty

(§ 33.)
Non omittas *ca-*
pias, bailable,
in K. B.

CHAP. VII. liberty in your county, but that you enter the same, and take *C. D.* and *Richard Roe*, &c. (as in the *alias* or *pluries capias*.)

(§ 34.)
Præcipe for
latitat, into a
 county-pala-
 tine.

County-palatine of — (to wit). *Latitat* for *A. B.* against *C. D.* &c. (as for a common *latitat*).

(§ 35.)
Latitat into a
 county-pala-
 tine. For the
 direction of this
 writ, *vide ante*,
 p. 68.

George the Third, (&c.) To — greeting: Whereas we lately commanded our sheriff of *Middlesex*, that he should take *C. D.* and *Richard Roe*, if they should be found in his bailiwick, and them safely keep, so that he might have their bodies before us at *Westminster*, at a certain day now past, to answer *A. B.* of a plea of trespass, and also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for —l. upon promises, according to the custom of our court before us; and our said sheriff of *Middlesex* at that day returned to us, that the said *C. D.* and *Richard Roe* were not found in his bailiwick; whereupon on behalf of the said *A. B.* it is sufficiently testified in our said court before us, that the said *C. D.* and *Richard Roe* do run up and down, and secrete themselves in our said county-palatine of —: Therefore we command you, that by our writ under the seal of our said county-palatine to be duly made, and to be directed to the sheriff of our said county-palatine, you command the said sheriff, (or, if in *Durham*, that by our writ under the seal of your bishoprick to be duly made, and directed to the sheriff of the county of *Durham*, you cause the said sheriff to be commanded,) that he take the said *C. D.* and *Richard Roe*, if they shall be found in his bailiwick, and them safely keep, so that he may have their bodies before us at *Westminster*, on — next after —, to answer the said *A. B.* of the plea and to the bill aforesaid; and have there then this writ. Witness, (&c.)

(§ 36.)
Ac-etiam in as-
sumpsit, at the
 suit of execut-
 ors, in *K. B.*

And also to a bill of the said *A.* and *B.* as executors of the last will and testament of *E. F.* deceased, to be exhibited against the said *C. D.* for —l. upon promises, according to the custom of the court of the said lord the king before the king himself, (in a bill of *Middlesex*; or in a *latitat*, according to the custom of our court before us.)

And also to a bill of the said *A.* and *B.* as administrators of *E. F.* all and singular the goods, chattels and credits, which were of *E. F.* deceased, at the time of his death, who died intestate, to be exhibited against the said *C. D.* for —*l.* upon promises, according, (&c.)

(§ 37.)
The like, at the
suit of admi-
nistrators.

And also to a bill of the said *A.* and *B.* as assignees of the estate and effects of *E. F.* a bankrupt, according to the force, form and effect of the several statutes concerning bankrupts, to be exhibited against the said *C. D.* for —*l.* upon promises, according, (&c.)

(§ 38.)
The like, at the
suit of assign-
ees of a bank-
rupt.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for breach of covenant, to the damage of the said *A. B.* of —*l.* according, (&c.)

(§ 39.)
In covenant.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for —*l.* debt, according, (&c.)

(§ 40.)
In debt on
bond, &c.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* in a plea of debt on recognizance, according, (&c.)

(§ 41.)
In debt on re-
cognizance.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for —*l.* in debt on statute, according, (&c.)

(§ 42.)
In debt on sta-
tute.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for detaining the goods and chattels (or “deeds and writings”) of the said *A. B.* to the value of —*l.* according, (&c.)

(§ 43.)
In detinue.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for converting and disposing of the goods and chattels of the said *A. B.* to the value of —*l.* according, (&c.)

(§ 44.)
In trover.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for taking and carrying away the goods and chattels of the said *A. B.* to his damage of —*l.* according, (&c.)

(§ 45.)
In trespass, de
bonis asportatis.

And

CHAP. VII. And also to a bill of the said *A. B.* to be exhibited against
 (§ 46.) the said *C. D.* for a certain trespass and assault, committed by
 In trespass and assault. the said *C. D.* on the said *A. B.* to his damage of — *l.* accord-
 ing, (&c.)

(§ 47.) And also to a bill of the said *A. B.* to be exhibited against
 In crim. con. the said *C. D.* for assaulting, and having criminal conversation
 with *E.* the wife of the said *A. B.* to his damage of — *l.* ac-
 cording, (&c.)

(§ 48.) As yet of — to — in the — year of the reign of king
 Entry of a bill of Middlesex on the roll, to save the statute of limitations, and award of alias, in K. B. *George the Third.* Witness *Edward Lord Ellenborough.*

Law & Markham.

Middlesex, ('o wit.) The sheriff is commanded that he
 take *C. D.* and *Richard Roe*, if they shall be found in his
 bailiwick, and them safely keep, so that he may have their
 bodies before the lord the king at *Westminster*, on — next
 after —, to answer *A. B.* of a plea of trespass; and that the
 said sheriff have there then this precept.

By Bill. *Law & Markham.*

At which day, before the lord the king at *Westminster*,
 comes the said *A. B.* in his proper person, and offers himself
 against the said *C. D.* and *Richard Roe*, in the plea afore-
 said; and the sheriff, to wit, — and — sheriff of *Middle-*
sex aforesaid, now here returns, that the said *C. D.* and
Richard Roe are not, nor is either of them, found in his baili-
 wick; and the said *C. D.* and *Richard Roe* do not come.

Award of alias. Therefore, as before, the said sheriff is commanded, that he
 take the said *C. D.* and *Richard Roe*, if they shall be found
 in his bailiwick, and them safely keep, so that he may have
 their bodies before the said lord the king at *Westminster*, on
 — next after —, to answer to the said *A. B.* of the
 plea aforesaid: The same day is given to the said *A. B.*
 there, &c.

(§ 49.) *Middlesex,* (to wit.) Entry of Bill of *Middlesex*, between
 Docket paper. *A. B.* plaintiff, and *C. D.* defendant; returnable on, (&c.)
 Roll —

As yet of — term, in the — year of the reign of **CHAS. VII.**
king *George the Third*: Witness *Edward Lord EL.* (*§ 50.*)
lenborough. Entry of *laudal*,
and award of
and *plures*
capias, in K. B.

Law & Markham.

England, (to wit.) Our lord the king to his sheriff
of — his writ close in these words, to wit, *George the*
Third, &c. (here copy the *titulat*). At which day before our
said lord the king at *Westminster*, comes the said *A. B.* in his
proper person, and offers himself against the said *C. D.* in the
plea aforesaid; and the sheriff, to wit, — sheriff of —
aforesaid, now here returns, that the said *C. D.* is not found
in his bailiwick; and the said *C. D.* does not come: There- Award of *alia*.
fore, as before, the said sheriff is commanded, that he take
the said *C. D.* if he shall be found in his bailiwick, and him
safely keep, so that he may have his body before our said
lord the king at *Westminster*, on — next after —, to
answer the said *A. B.* of the plea aforesaid; the same day is
given to the said *A. B.* there, &c. At which day, before our
said lord the king at *Westminster*, comes the said *A. B.* in his
proper person, and offers himself against the said *C. D.* in the
plea aforesaid; and the sheriff of — aforesaid hath not sent
the writ of our said lord the king to him in that behalf di- Continuance
rected, nor hath he done any thing thereupon: Therefore the by *recomes*
said sheriff is commanded, (as oftentimes before he hath been non *iusit brece*.
commanded,) that he take the said *C. D.* if he shall be found in, Award of *plures*.
his bailiwick, and him safely keep, so that he may have his
body before our said lord the king at *Westminster*, on —
next after —, to answer the said *A. B.* of the plea aforesaid:
The same day is given to the said *A. B.* there, &c.

— (to wit.) *Capias* for *A. B.* against *C. D.* *Trespas*, at (*§ 51*)
—, returnable on —. *Præcipe* for
capias not bail-
able, in C. P.

E. F. Attorney.

— 18—.

George the Third, (&c.) To the sheriff of — greeting: (*§ 52.*)
We command you, that you take *C. D.* and *Richard Roe*, if *Capias* not
they shall be found in your bailiwick, and then safely keep, bailable, in
so that you may have their bodies before our justices at *West-* C. P.
minster,

CHAP. VII. *minster*, on —, to answer *A. B.* in a plea wherefore, with force and arms, the close of the said *A. B.* at — they broke, and other wrongs to him did, to the great damage of the said *A. B.* and against our peace; and have there this writ. Witness Sir *Vicary Gibbs* knight, at *Westminster*, the — day of — in the — year of our reign.

(§ 53.)
Præcipe for
bailable *capias*,
in C. P. — (to wit.) *Capias* for *A. B.* against *C. D.* *Trespass*, at —, Case, for — *l.* upon promises, (or *Debt* for — *l.*) returnable on —.

Oath for — *l.* by affidavit filed. *E. F.* Attorney.

— 18—.

(§ 54.)
Bailable *capias*,
in C. P. *George the Third, (&c.)* To the sheriff of — greeting: We command you, that you take *C. D.* and *Richard Roe*, if they shall be found in your bailiwick, and them safely keep, so that you may have their bodies before our justices at *Westminster*, on —, to answer *A. B.* in a plea wherefore, with force and arms, the close of the said *A. B.* at — they broke, and other wrongs to him did, to the great damage of the said *A. B.* and against our peace; and also that the said *C. D.* may answer the said *A. B.* according to the custom of our court of Common Bench, in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.* (or in *debt*, in a certain plea of debt on demand for — *l.*); and have you there this writ. Witness Sir *Vicary Gibbs* knight, at *Westminster*, the — day of — in the year of our reign.

Ac etiam.

(§ 55.)
Indorsement
thereon Bail by affidavit for — *l.*
E. F. Temple,
Plaintiff's attorney, (or agent).

— 18—.

(§ 56.) — (to wit.) *Capias* by continuance for *A. B.* against *C. D.* &c. (as before.)
Præcipe for
capias by continuance, in C. P.

(§ 57.) — (to wit.) *Testatum capias* for *A. B.* against *C. D.* &c. (as before.)
The like, for
testatum capias,
in C. P.

(§ 58.) *George the Third, (&c.)* To the sheriff of — greeting: We command you, that you take *C. D.* &c. (as before,
Testatum capias,
in C. P.

to

to the end of the mandatory part of the writ); and where-
upon our sheriff of — at a certain day now past, returned
to our justices at *Westminster*, that the said *C. D.* was not
found in his bailiwick; whereas it is sufficiently testified in
our said court, that the said *C. D.* doth run up and down,
and secrete himself in your county; and have there this writ.
Witness, (&c.)

— (to wit.) *Non omittas capias* for *A. B.* against *C. D.*
&c. (as before.)

(§ 59.)
Præcipe for non omittas capias, in C. P.

George the Third, (&c.) To the sheriff of — greeting:
We command you, that you omit not by reason of any liberty
in your county, but that you enter the same, and take *C. D.*
&c. (as before, p. 75, 6.)

(§ 60.)
Non omittas capias, in C. P.

County-palatine of — (to wit.) *Testatum capias* for *A. B.*
against *C. D.* &c. (as before)

(§ 61.)
Præcipe for testatum capias into a county-palatine, in C. P.

George the Third, (&c.) To — greeting: We command
you, that by our writ under the seal of our said county-
palatine to be duly made, and to be directed to the sheriff of
our said county palatine, you command the said sheriff, (or
if in *Durham*, that by our writ under the said seal of your
bishoprick to be duly made, and to be directed to the sheriff
of the county of *Durham*, you cause the said sheriff to be
commanded,) that he take *C. D.* and *Richard Roe*, if they be
found in his bailiwick, and them safely keep, so that you
may have their bodies before our justices at *Westminster*, on
—, to answer *A. B.* of a plea wherefore, with force and
arms, the close of the said *A. B.* at — they broke, and
other wrongs to him did, to the great damage of the said
A. B. and against our peace; and also that the said *C. D.* may
answer the said *A. B.* according to the custom of our court
of Common Bench, in a certain plea of trespass on the case
upon promises, to the damage of the said *A. B.* of —
(or in *debt*, in a certain plea of debt on demand for —
and whereupon our sheriff of — at a certain day now past,
returned to our justices at *Westminster*, that the said *C. D.*
was not found in his bailiwick; whereas it is sufficiently testi-
fied

(§ 62.)
Testatum capias into a county palatine, in C. P.

Ac etiam.

CHAP. VII. filed in our said court, that the said *C. D.* doth run up and down, and secrete himself in our said county-palatine; and have there this writ. Witness Sir *Vicary Gibbs* knight, at *Westminster*, the — day of —, in the — year of our reign.

(§ 63)
Ac etiam in assumptioni, at the suit of executors, in C P. And also that the said *C. D.* may answer the said *A.* and *B.* as executors of the last will and testament of *E. F.* deceased, according to the custom of our court of Common Bench, in a certain plea of trespass on the case upon promises, to the damage of the said *A.* and *B.* as executors as aforesaid, of — *l.*

(§ 64)
The like, at the suit of administrators. And also that the said *C. D.* may answer the said *A.* and *B.* as administrators of all and singular the goods, chattels and credits, which were of *E. F.* deceased at the time of his death, who died intestate, according, (&c.) in a certain plea of trespass on the case upon promises, to the damage of the said *A.* and *B.* as administrators as aforesaid, of — *l.*

(§ 65)
The like, at the suit of assignees of a bankrupt And also that the said *C. D.* may answer the said *A.* and *B.* as assignees of the estate and effects of *E. F.* a bankrupt, according to the force, form and effect of the several statutes concerning bankrupts, according, (&c.) in a certain plea of trespass on the case upon promises, to the damage of the said *A.* and *B.* as assignees as aforesaid, of — *l.*

(§ 66)
In covenant, And also that the said *C. D.* may answer the said *A. B.* according, (&c.) in a certain plea of breach of covenant, to the damage of the said *A. B.* of — *l.*

(§ 67)
In debt on bond, &c. And also that the said *C. D.* may answer the said *A. B.* according, (&c.) in a certain plea of debt on demand for — *l.*

(§ 68)
In debt on recognizance And also that the said *C. D.* may answer the said *A. B.* according, (&c.) in a plea of debt on recognizance.

(§ 69)
In debt on statute. And also that the said *C. D.* may answer the said *A. B.* according, (&c.) in a plea of debt on statute.

And

And also that the said *C. D.* may answer the said *A. B.* according, (&c.) in a plea for detaining the goods and chattels, (of deeds and writings,) of the said *A. B.* to the value of — *l.*

CHAP. VII.
(§ 70.)
In detinue.

And also that the said *C. D.* may answer the said *A. B.* according, (&c.) in a plea for converting and disposing of the goods and chattels of the said *A. B.* to the value of — *l.*

(§ 71.)
In trover

And also that the said *C. D.* may answer the said *A. B.* according, (&c.) in a plea of trespass, for taking and carrying away the goods and chattels of the said *A. B.* to his damage of — *l.*

(§ 72.)
In trespass de bonis asportatis.

And also that the said *C. D.* may answer the said *A. B.* according, (&c.) in a plea of trespass and assault, to the damage of the said *A. B.* of — *l.*

(§ 73.)
In trespass and assault.

And also that the said *C. D.* may answer the said *A. B.* according, (&c.) in a plea for assaulting, and having criminal conversation with *E.* the wife of the said *A. B.* to his damage of — *l.*

(§ 74.)
In crim. con.

— term, in the — year of the reign of king *George the Third.*

(§ 75.)
Entry of cap. et respondendum, in C. P.

— (to wit.) The sheriff was commanded, that he should take *C. D.* if he should be found in his bailiwick, and him safely keep, so that he might have his body before the justices of the lord the king at *Westminster*, on —, to answer *A. B.* in a plea wherefore, with force and arms, the close of the said *A. B.* at — he broke, and other wrongs, &c. to the great damage, &c. and against the peace, &c. and also in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.* (or in debt, in a certain plea of debt on demand for — *l.*) At which day comes here the said *A. B.* in his proper person, and offers himself against the said *C. D.* in the several pleas aforesaid; and the sheriff, to wit, — sheriff of — aforesaid, now here returns, that the said *C. D.* is not found in his bailiwick; and the said *C. D.* does not come.

— (to wit.)

CHAP. VII. — (to wit) *Venire faciās*. Case. *A. B.* against *C. D.* returnable on —.

(§ 76.)
Præcipe for venire facias ad respondendum, in the Exchequer.

E. F. Solicitor. — 18—.

(§ 77.)
Writ of venire facias ad respondendum.

George the Third, (&c) To the sheriff of — greeting :
 We command you, that you omit not by reason of any liberty of your county, but that you enter the same, (a) and cause *C. D.* to come before the barons of our Exchequer at *Westminster*, on — (or on the — day of — instant, or next coming,) (a) to answer *A. B.* our debtor, of a plea of trespass on the case, (or as the plea is,) whereby he is the less able to satisfy us the debts which he owes us at our said Exchequer, to his great damage, as he says he can reasonably shew that thercof he ought to answer; and have you there this writ. Witness Sir *Alexander Thomson* knight, at *Westminster*, the — day of — in the — year of our reign. (a)

E. F. Solicitor. (b)

G. H. (b)

I. (b)

Rose. (b)

To

(a) In the Exchequer of Pleas, the process is always a *non omittas*, and must be tested in term time, in the name of the Chief Baron, or *senior* Baron of the court, if there be no Chief Baron. If sued out in term-time, it is usually tested, as in the other courts, on the first day of that term, or if sued out in vacation, on the last day of the preceding one. And it may be made returnable on any day in term, not being a Sunday, or other *dies non juridicus*, as the feast of the Purification, &c. If, as is commonly the case, the writ be made returnable on a general return, it is described accordingly, as in process by original writ; or if on any other day, it is usual to state the day of the month, as on the — day of — instant, (or next coming.)

(b) The business of the Exchequer of Pleas is transacted by four attorneys, and sixteen side-clerks, or clerks in court, each attorney having four clerks. And it is transacted by them either as *principals*, immediately employed by the parties, or as *agents* for attornies so employed, and admitted in either of the other courts at *Westminster*, who as such are *solicitors* on the plea side of this court. Where an attorney of the Exchequer acts as principal, his name only is written, opposite to that of the Clerk of the Pleas, at the foot of signable process, as attorney for the plaintiff; but where he is only an agent, the name of the solicitor for whom he acts is first written, thus, "*I. F.* Solicitor," and then his own name, and afterwards that of the Clerk of the Pleas. Where a clerk in court acts as principal, his name is written thus, "*G. H.* Clerk in Court," and then the initial of the name of the attorney in whose division he is, but where he is only an agent, the names are written as above, viz. first, the name of the solicitor; secondly, his own name, without stating him to be a clerk in court; thirdly, the initial of the attorney's name, and lastly, the name

of

To *J. K.* and *L. M.* my bailiffs.

CHAP. VII.

(to wit.) Summon *C. D.* to appear before the barons of his majesty's Exchequer at *Westminster*, on — next coming, to answer *A. B.* his said majesty's debtor, of a plea of trespass on the case, whereby he is the less able, &c.
Dated the — day of — 1—.

(§ 78)
Sheriff war-
rant
mon. thereon.

E. F. Solicitor. *G. H.* *I.*

— Esquire, sheriff.

The summoners of the within-named defendant are *J. K.* and *L. M.* my bailiffs.

(§ 79)
Return of sum-
mons thereto.

The answer of — Esquire, sheriff.

The answer of the right honourable — Chancellor of the county-palatine of *Lancaster*, to this writ

(§ 80)
The writ, in a
county palat-
ine

By virtue of this writ, to me directed and delivered, by another writ, under the seal of the county-palatine of *Lancaster* within-mentioned, and directed to the sheriff of the said county, I commanded the said sheriff, as within I am commanded, which said sheriff, to wit, — Esquire, in answer to the said last-mentioned writ, saith that the summoners of the within-named defendant are *J. K.* and *L. M.*

* By the same Chancellor.

George the Third, (&c.) To the sheriff of — greeting. We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and distrain *C. D.* by all his lands and chattels in your bailiwick, so that neither he nor any one by him do lay hands on the same, until we shall command you otherwise therein, and that you answer to us for the issues of the same, so that you have him before the barons of our Exchequer at *Westminster*, on — next coming, to answer *A. B.* our debtor, of a plea of trespass on the case, whereby he is the less able to satisfy us the debts

(§ 81)
Writ of dis-
tress as id res
to de dom.

of the clerk of the pleas. If the price is not signable, the attorney's name or initial is indited thereon instead of being written at the foot of it.

The writs of *venire facias*, *distringas*, and *quoniam*, &c. are signed with

the name of the Clerk of the Pleas, now *William Stewart Rose* Esquire, but the *subpoena*, and process of contempt thereon, are not signable, but issued under the seal of the court, and subscribed "By the Bench."

CHAP. VII. which he owes us at our said Exchequer, to his great damage, as he says he can reasonably shew that thereof he ought to answer; and have you there this writ. Witness Sir *Alexander Thomson* knight, at *Westminster*, the — day of — in the — year of our reign.

E. F. Solicitor.

G. H.

I.

Rose.

(§ 82.)
Sheriff's warrant thereon.

To *I. K.* and *L. M.* my bailiffs.

— (to wit.) Distrain *C. D.* by all his lands and chattels in my bailiwick, so that he appear before the barons of his majesty's Exchequer at *Westminster*, on — next coming, to answer *A. B.* his majesty's debtor, of a plea of trespass on the case, whereby, &c. Dated this — day of — 18—.

E. F. Solicitor.

G. H.

I.

Levy forty shillings.

— Esquire, sheriff.

(§ 83.)
Return of issues.

The manucaptors of the within-named defendant are *I. K.* and *L. M.* my bailiffs. Issues, forty shillings.

The answer of — Esquire, sheriff.

(§ 84.)
Return of nihil habet.

The within-named defendant hath not any thing in my bailiwick, where or by which he can be distrained, or I can cause him to come, as I am within commanded; nor is the said defendant found in the same.

The answer of — Esquire, sheriff.

(§ 85.)
Rule for sale of issues.

— term, in the — year of the reign of king
George the Third

A. B. plaintiff against *C. D.* defendant.

— the — } Upon the motion of Mr. — of counsel
day of — } for the plaintiff, and reading the writ of

distringas issued in this cause, and the return made thereon by the sheriff of the county of —, and the affidavit of the said plaintiff; it is ordered, that the said sheriff return the sum of — *l.* issues, on the next *distringas* to be issued in this cause.

By the Court.

Rose.

To the sheriff of —, or his bailiffs in this case ap- CHAP. VII.
pointed. (§ 86.)

A. B. plaintiff against *C. D.* defendant.

Authority to
restore issues,
on appearance.

SIR,

The defendant having appeared, you are hereby authorized and required to restore to him the several issues levied by you, on process issued in this cause, between the said parties; for which this shall be your warrant. Dated this — day of — 18—.

E. F. Solicitor for the said plaintiff.

(to wit.) — *Quo minus. A. B.* against *C. D.* returnable on —. (§ 87.)
Pro. q. e. for quod minus.

E. F. Solicitor. — 18—.

George the Third, (&c.) To the sheriff of — greeting: (§ 88.)
We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and take *C. D.* and *Richard Roe*, wheresoever they shall be found in your bailiwick, and them safely keep, so that you may have their bodies, before the barons of our Exchequer at *Westminster*, on — next coming, to answer *A. B.* our debtor, of a plea of trespass, whereby he is the less able to satisfy us the debts which he owes us at our said Exchequer, to his great damage, as he says he can reasonably shew that thereof they ought to answer; and have you there this writ. Witness Sir *Alexander Thomson* knight, at *Westminster*, the — day of — in the — year of our reign. Writ of *quo minus.*

E. F. Solicitor. *G. H.* *I.* *Roe.*

Pleas before the Barons of the Exchequer at *West-* (§ 89.)
minster, among the pleas of the term of —, Entry of *quo*
(the term in which the writ is returnable,) in the *minus*, with the
— year of the reign of our sovereign lord, of nor est in-
George the Third, by the grace of God of the *ward of ams*
united kingdom of *Great Britain* and *Ireland*
king, defender of the faith, and so forth.

— (to wit.) The sheriff was commanded, that he should omit not by reason of any liberty of his county, but that he should enter the same, and take *C. D.* and *Richard Roe*, where-

CHAP. VII. soever they should be found in his bailiwick, and them safely keep, so that he might have their bodies, before the barons of his majesty's Exchequer at *Westminster*, on the — day of — then instant, (return of *quo minus*,) to answer *A. B.* his said majesty's debtor, of a plea of trespass, whereby he was the less able to satisfy his said majesty, the debts which he owed him at his said Exchequer, to his great damage, as he said he could reasonably shew that thereof they ought to answer; and that he should have there that writ: The same day was given to the said *A. B.* there, &c. At which day, before the barons of the said Exchequer at *Westminster* aforesaid, comes the said *A. B.* in his proper person, and offers himself against the said *C. D.* in the plea aforesaid; and the sheriff, to wit, — sheriff of the said county of — now here returns, that the said *C. D.* is not found in his bailiwick; and the said *C. D.* doth not come: Therefore, as before, the said sheriff is commanded, that he omit not by reason of any liberty of his county, but enter the same, and take the said *C. D.* wheresoever he shall be found in his bailiwick, and him safely keep, so that he may have his body before the barons of his said majesty's Exchequer at *Westminster*, on — next coming, to answer the said *A. B.* of the plea aforesaid: The same day is given to the said *A. B.* here, &c.

(§ 90.)
*Precept for
 subpoena ad res-
 pondendum.*

— (to wit.) *Subpœna ad respondendum.* *A. B.* against
C. D. returnable on —.
E. F. Solicitor. — 18 —.

(§ 91.)
*Writ of sub-
 pœna ad respon-
 dendum.*

*George the Third, (&c.). To C. D. &c. greeting: We com-
 mand and strictly enjoin you, that all excuses apart, you ap-
 pear before the barons of our Exchequer at Westminster, im-
 mediately after service hereof, (in term; or if sued out in va-
 cation, any day in the next term,) to answer us, concerning cer-
 tain articles then and there on our behalf to be objected against
 you; and this you are in no wise to omit, under the penalty of
 one hundred pounds, which we shall cause to be levied to our
 use, upon your goods and chattels, lands and tenements, if
 you neglect this our present command. Witness Sir Alexan-
 der*

der Thomson knight, at *Westminster*, the — day of — in **CHAP. VII.**
the — year of our reign.

E. F. Solicitor.

G. H.

By the Barons.

At the suit of *A. B.* in the Office of Pleas.

I. for the plaintiff.

(§ 92.)
Indorsement
thereon.

To *C. D.* to appear in the Office of Pleas of his majesty's
court of Exchequer at *Westminster*, on — next coming, at
the suit of *A. B.*

(§ 93.)
Lal et to be
served on de-
fendant.

I. for the plaintiff.

In the Exchequer of Pleas.

A. B. plaintiff,

against

C. D. E. F. and *G. H.*

defendants.

(§ 94.)
Affidavit of
service of sub-
pœna, on se-
veral defend-
ants.

I. M. of — gentleman, maketh oath and saith, that he
did on the — day of — instant, (or last,) personally serve
C. D. one of the defendants above-named, with a true copy
of a writ of *subpœna ad respondendum*, appearing to this de-
ponent to be regularly issued out of, and under the seal of
this honourable court, and returnable on the — day of —
last, (or instant,) against the above-named defendants, at the
suit of the above-named plaintiff, by delivering such copy to
the said *C. D.* at his house in —, and at the same time
shewing him the said original writ: And that he this depo-
nent did, on the — day of — instant (or last), also serve
E. F. another of the defendants above-named, with a true
copy of the said writ of *subpœna*, by delivering such copy to
a person at the dwelling-house of the said *E. F.* who in-
formed this deponent she was the wife (or maid-servant) of
the said *E. F.* and at the same time shewing her the said
original writ: And that he this deponent did, on the —
day of — instant, (or last,) also serve *G. H.* another of the
defendants above-named, with a true copy of the said writ of
subpœna, by delivering such copy to *I. K.* at his dwelling-
house at —, with whom the said *G. H.* then lodged and
resided, and at the same time shewing the said original writ
to the said *I. K.*

Sworn, (&c.)

— (to wit.)

CHAP. VII. soever they should be found in his bailiwick, and them safely keep, so that he might have their bodies, before the barons of his majesty's Exchequer at *Westminster*, on the — day of — then instant, (return of *quo minus*,) to answer *A. B.* his said majesty's debtor, of a plea of *trespas*, whereby he was the less able to satisfy his said majesty, the debts which he owed him at his said Exchequer, to his great damage, as he said he could reasonably shew that thereof they ought to answer; and that he should have there that writ: The same day was given to the said *A. B.* there, &c. At which day, before the barons of the said Exchequer at *Westminster* aforesaid, comes the said *A. B.* in his proper person, and offers himself against the said *C. D.* in the plea aforesaid; and the sheriff, to wit, — sheriff of the said county of — now here returns, that the said *C. D.* is not found in his bailiwick; and the said *C. D.* doth not come: Therefore, as before, the said sheriff is commanded, that he omit not by reason of any liberty of his county, but enter the same, and take the said *C. D.* wheresoever he shall be found in his bailiwick, and him safely keep, so that he may have his body before the barons of his said majesty's Exchequer at *Westminster*, on — next coming, to answer the said *A. B.* of the plea aforesaid: The same day is given to the said *A. B.* here, &c.

(§ 90.)
Writ of
subpœna ad res-
pondendum.

— (to wit) *Subpœna ad respondendum. A. B.* against *C. D.* returnable on —.
E. F. Solicitor. — 18 —.

(§ 91.)
Writ of sub-
pœna ad respon-
dendum.

*George the Third, (&c.) To C. D. &c. greeting: We command and strictly enjoin you, that all excuses apart, you appear before the barons of our Exchequer at Westminster, immediately after service hereof, (in term; or if sued out in vacation, any day in the next term,) to answer us, concerning certain articles then and there on our behalf to be objected against you; and this you are in no wise to omit, under the penalty of one hundred pounds, which we shall cause to be levied to our use, upon your goods and chattels, lands and tenements, if you neglect this our present command. Witness Sir Alexan-
der*

der Thomson knight, at *Westminster*, the — day of — in CHAP. VII.
the — year of our reign.

E. F. Solicitor.

G. H.

By the Barons.

At the suit of *A. B.* in the Office of Pleas.

I. for the plaintiff.

(§ 92.)
Indorsement
thereon.

To *C. D.* to appear in the Office of Pleas of his majesty's
court of Exchequer at *Westminster*, on — next coming, at
the suit of *A. B.*

(§ 93.)
Label to be
served on de-
fendant.

I. for the plaintiff.

In the Exchequer of Pleas.

A. B. plaintiff,

against

C. D. E. F. and *G. H.*

defendants.

(§ 94.)
Affidavit of
service of *sub-
pæna*, on se-
veral defend-
ants.

I. M. of — gentleman, maketh oath and saith, that he
did on the — day of — instant, (or last,) personally serve
C. D. one of the defendants above-named, with a true copy
of a writ of *subpæna ad respondendum*, appearing to this de-
ponent to be regularly issued out of, and under the seal of
this honourable court, and returnable on the — day of —
last, (or instant,) against the above-named defendants, at the
suit of the above-named plaintiff, by delivering such copy to
the said *C. D.* at his house in —, and at the same time
shewing him the said original writ: And that he this depon-
ent did, on the — day of — instant (or last), also serve
E. F. another of the defendants above-named, with a true
copy of the said writ of *subpæna*, by delivering such copy to
a person at the dwelling-house of the said *E. F.* who in-
formed this deponent she was the wife (or maid-servant) of
the said *E. F.* and at the same time shewing her the said
original writ: And that he this deponent did, on the —
day of — instant, (or last,) also serve *G. H.* another of the
defendants above-named, with a true copy of the said writ of
subpæna, by delivering such copy to *I. K.* at his dwelling-
house at —, with whom the said *G. H.* then lodged and
resided, and at the same time shewing the said original writ
to the said *I. K.*

Sworn, (&c.)

— (to wit.)

CHAP. VII. (to wit.) — Attachment. *A. B.* against *C. D.* returnable
 (§ 95.) the — day of —.
Procepe for at-
 tachment. *E. F.* Solicitor. — 18—.

(§ 96)
 Writ of attach-
 ment, for non-
 appearance to
subpoena.

George the Third, (&c.) To the sheriff of — greeting:
 We command you, that you omit not by reason of any liberty
 of your county, but that you enter the same, and attach
C. D. and *Richard Roe* by their bodies, wheresoever you shall
 find them in your bailiwick, and them safely and securely
 keep, so that you may have them before the barons of our
 Exchequer at *Westminster*, on the — day of — next co-
 ming, to answer us, concerning divers trespasses contempts
 and offences, by them lately done and committed; and that
 you have there then this writ. Witness Sir *Alexander Thom-*
son knight, at *Westminster*, the — day of — in the —
 year of our reign.

E. F. Solicitor.

G. H.

By the Barons.

Issued the same day, (or — day of — 18—)

(§ 97)
 Indorsement
 thereon

At the instance of *A. B.* for want of an appearance, in the
 Office of Pleas. *I.* for the plaintiff.

(§ 98)
 Writ of attach-
 ment to a coun-
 ty-palatine.

George the Third, (&c.) To — greeting: We command
 you, that by our writ under the seal of our said county-pa-
 latine to be duly made, and to be directed to the sheriff of
 the same county, you command the said sheriff, (or if, in *Dur-*
ham, that “by our writ, under the seal of your bishoprick to
 be duly made, and directed to the sheriff of the county of
Durham, you cause the said sheriff to be commanded,”) that
 he omit not by reason of any liberty of his county, but that
 he enter the same, and attach *C. D.* and *Richard Roe* by their
 bodies, wheresoever they shall be found in his bailiwick, and
 them safely and securely keep, so that he may have them,
 &c. (as in the last); and that the said sheriff certify to you
 what he shall do in the premises, so that you may certify
 the same to our barons, at the day and place aforesaid, toge-
 ther with the said sheriff's name, and his writ. Witness, (&c.)

By the Barons.

Indorsement, as on the last writ.

(§ 99)
 Writ of pluries
 attachment,
 with a clause of
 proclamation.

George the Third, (&c.) To the sheriff of — greeting:
 We command you, that you omit not by reason of any li-
 berty

erty of your county, but that you enter the same, and in all places in your bailiwick, where it shall seem to you most expedient, you cause public proclamation to be made, that *C. D.* upon pain of his allegiance from him to us due, do personally appear before the barons of our Exchequer at *Westminster*, on — next coming; and in the mean-time we command you, as oftentimes we have commanded you, that you omit not by reason of any such liberty, but enter the same, and attach the said *C. D.* by his body, wheresoever you shall find him in your bailiwick, and him safely and securely keep, so that you may have him before the barons of our said Exchequer, at the day and place aforesaid, to answer us concerning divers trespasses contempts and offences, by him lately done and committed; and have you there then this writ. Witness Sir *Alexander Thomson* knight, at *Westminster*, the — day of — in the year of our reign. CHAP. VII.

By several Writs returned; and by the Barons.

Issued the same day, (or — day of — 18—.)

Indorsement as on the writ of attachment, *ante*, p. 86.

By virtue of this writ to me directed, I have caused public proclamation to be made in all places within my bailiwick, where it seemed most expedient, as I am within commanded; and I further certify, that the within-named *C. D.* is not found in my bailiwick. (\$ 100.)
Return of non
es inventus, to
writ of procla-
mation.

The answer of — Esquire, sheriff.

George the Third, (&c.) to our beloved *J. K.* (&c.) greeting: Whereas *C. D.* who has been commanded by public proclamation made on our behalf, by the sheriff of our county of —, in divers places thereof, by virtue of our writ to him in that behalf directed, that he should on pain of his due allegiance, personally appear before the barons of our Exchequer at *Westminster*, at a certain day now past, hath manifestly refused to obey our said command; we do therefore command you, and every of you, jointly and severally, that you omit not by reason of any liberty, but that you enter the same, and attach, or cause to be attached, the said *C. D.* wheresoever he shall be found within *England, Wales*, or the town of *Berwick upon Tweed*, as a rebel, and contemner of our laws, so that you, or any (\$ 101.)
Commission of
rebellion

CHAR. VIII. named plaintiff *A. B.* on the — day of — last, to appear on the — day of — next, in his majesty's court of King's Bench (Common Pleas, or Exchequer) at *Westminster*, and the said process not being returnable, I do hereby give you notice not to appear thereto, there being a mistake in the said process. Dated this — day of — 18—.

Yours, &c.

E. F. plaintiff's attorney.

C. D. the above defendant.

(§ 5.)
Affidavit of
debt, by the
plaintiff

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas)

A. B. of — maketh oath and saith, that *C. D.* is justly and truly indebted to this deponent, in the sum of — *l.* for, &c. (stating the nature of the debt, or cause of action, with certainty and precision, according to the following forms): And this deponent further saith, that no other has been made to pay the said sum of — *l.* or any part thereof, in any note or notes of the Governor and Company of the Bank of *England*, expressed to be payable on demand.

A. B.

Jurat

Sworn (in K. B.) at the bill of *Middlesex* office, (or king's bench office, or filacer's office, as the case may be,) this — day of — 18—, before — (the Officer's name): Or if in the country, at — the — day of — 18—, before — a Commissioner."

In the Common Pleas, the affidavit of debt is sworn at the filacer's office in town, or before a commissioner in the country: In the Exchequer, it is sworn before a baron, the deputy clerk of the pleas, or officer who signs the process in town, or before a commissioner in the country.

(§ 4.)
Affidavit of
debt, by one of
several parties.

A. B. of — maketh oath and saith, that *C. D.* is justly and truly indebted to this deponent and *E. F.* in the sum of — *l.* for, (&c.)

E. F.

E. F. wife of *A. B.* of — maketh oath and saith, that *C. D.* is justly and truly indebted to the said *A. B.* (§ 7)
The like, by plaintiff's wife.

E. F. of — clerk (or servant) to *A. B.* maketh oath and saith, that *C. D.* is justly and truly indebted to the said *A. B.* (§ 8)
The like by plaintiff's clerk, or servant

In the King's Bench, (§ c.)

A. B. of — being one of the people called Quakers, solemnly affirms, that *C. D.* is justly indebted to this affirmant, in the sum of — *l.* for, (§ c.) And this affirmant further saith, that no offer, (§ c.)
(§ 9)
Affirmation of a Quaker.

Affirmed, (§ c.)

For a certain messuage or tenement and premises with the appurtenances, of this deponent, by him bargained sold and released to the said *C. D.* at his request, (§ 10)
For freehold premises, bargained and sold

For certain messuages, (§ c.) of this deponent, by him bargained sold and surrendered to the said *C. D.* at his request. (§ 11)
Copyhold premises, surrendered.

For certain messuages, (§ c.) of this deponent, by him bargained sold and assigned to the said *C. D.* at his request, for the remainder of a certain term of years therein. (§ 12)
Leasehold premises, assigned

For the use and occupation of a certain dwelling-house, (or of a certain dwelling-house, farm and lands,) with the appurtenances, of this deponent, held and enjoyed by the said *C. D.* as tenant thereof to this deponent, for — now elapsed. (§ 13)
Use and occupation of a house, &c.

For the use and occupation of divers rooms and apartments, in and parcel of a certain dwelling-house of this deponent, held and enjoyed by the said *C. D.* as tenant thereof to this deponent, for — now elapsed. (§ 14)
The like, of rooms.

For goods (or a horse, &c.) sold and delivered by this deponent to the said *C. D.* and at his request. (§ 15)
Goods, &c., sold and delivered.

For

CHAP VIII. For goods bargained and sold by this deponent to the said
 (§ 16) C. D. and by virtue of that bargain and sale delivered to one
 C. D. is bargained and sold to E. F. at the request of the said C. D.
 defendant, and delivered to a third person.

(§ 17) For so much money, which the said C. D. promised and
 Money agreed to be paid on the exchange of horses.
 ed to pay to this deponent, together with a certain horse
 in the said C. D. in exchange for a certain horse of this

(§ 18) For meat, drink, washing, lodging, and other necessities,
 Nec cessaries found and provided by this deponent for the said C. D. and
 found and provided. at his request

(§ 19) For divers medicines, and other necessary things, found and
 Medicines, &c. provided, administered, delivered and applied by this deponent,
 as an apothecary, for the said C. D. (and divers other persons), at his request.

(§ 20) For the use and hire of divers horses, mares and gelding,
 Hire of horses, &c. and of divers chaises and other carriages, (or of certain lighters
 and other vessels, or of certain household goods and furniture,) let to hire and delivered by this deponent to the said
 C. D. and at his request.

(§ 21) For horse-meat, stabling, care and attendance, found pro-
 Stables meat, &c. vided and bestowed by this deponent, for in and about the
 feeding and keeping of divers horses, mares and geldings, for
 the said C. D. at his request.

(§ 22) For the agisting, depasturing and keeping of divers cattle,
 Agisting of cattle by this deponent for the said C. D. and at his request.

(§ 23) For freight, primage and average, due and payable from
 Freight, &c. the said C. D. to this deponent, upon for and in respect of
 certain goods, carried and conveyed by this deponent, in and
 on board of a certain ship or vessel, for the said C. D. and
 at his request.

(§ 24) For the use of a certain ship or vessel of this deponent, (or,
 Demurrage. whereof this deponent is master,) retained and kept by the
 said C. D. with certain goods and merchandizes aboard there-

on demurrage, for a long space of time now elapsed, at the request of the said *C. D.*

For the lightering of certain goods, carried and conveyed in certain lighters and other vessels of this deponent, for the said *C. D.* and at his request. (§ 25)
Lightering.

For work and labour, done and performed by this deponent for the said *C. D.* and at his request. (§ 26)
Work and labour.

For work and labour, done and performed by this deponent and his servants, and with his horses carts and carriages, for the said *C. D.* and at his request. (§ 27)
The like, by plaintiff and his servants, with horses, &c.

For work and labour done and performed, and materials found and provided, by this deponent for the said *C. D.* and at his request. (§ 28)
Work and labour, and materials.

For wages due and payable from the said *C. D.* to this deponent, for the service of this deponent, done and performed as the hired servant of the said *C. D.* and on his retainer. (§ 29)
Servant's wages.

For work and labour, done and performed by this deponent as a surveyor, in and about the drawing of divers plans, elevations and sections of buildings, and the surveying and superintending the erection thereof, and in and about the admeasurement and valuation of certain works, and the payment of certain workmen's bills, for the said *C. D.* and in and about other the business of the said *C. D.* and at his request. (§ 30)
Work and labour as a surveyor.

For work and labour, care diligence and attendance, done performed and bestowed by this deponent, as a surgeon and apothecary, for the said *C. D.* and at his request, in and about the healing and curing of the said *C. D.* (and divers other persons,) of divers diseases, disorders and maladies, under which they had respectively laboured and languished; and for divers medicines and other necessary things, found and provided, administered delivered and applied by this deponent on those occasions, for the said *C. D.* and at his like request. (§ 31)
The like, as a surgeon and apothecary.

CHAP. VIII. For goods bargained and sold by this deponent to the said

(§ 16)
C. D. and by virtue of that bargain and sale delivered to one
E. F. at the request of the said C. D.
C. D. bargained and sold to defendant, and delivered to a third person.

(§ 17)
Money agreed to be paid on exchange of horses.
For so much money, which the said C. D. promised and agreed to pay to this deponent, together with a certain horse of the said C. D. in exchange for a certain horse of this deponent.

(§ 18)
Necessaries found and provided.
For food, drink, washing, lodging, and other necessities, found and provided by this deponent for the said C. D. and at his request.

(§ 19)
Medicines, &c.
For divers medicines, and other necessary things, found and provided, administered, delivered and applied by this deponent, as an apothecary, for the said C. D. (and divers other persons), at his request.

(§ 20)
Hire of horses, &c.
For the use and hire of divers horses, mares and geldings, and of divers chaises and other carriages, (or of certain lighters and other vessels, or of certain household goods and furniture,) let to hire and delivered by this deponent to the said C. D. and at his request.

(§ 21)
Horseshoeing, &c.
For horseshoeing, stabling, care and attendance, found provided and bestowed by this deponent, for in and about the feeding and keeping of divers horses, mares and geldings, for the said C. D. at his request.

(§ 22)
Agisting of cattle.
For the agisting, depasturing, and keeping of divers cattle, by this deponent for the said C. D. and at his request.

(§ 23)
Freight, &c.
For freight, primage and average, due and payable from the said C. D. to this deponent, upon for and in respect of certain goods, carried and conveyed by this deponent, in and on board of a certain ship or vessel, for the said C. D. and at his request.

(§ 24)
Demurrage.
For the use of a certain ship or vessel of this deponent, (or, whereof this deponent is master,) retained and kept by the said C. D. with certain goods and merchandizes aboard there-
of

of on demurrage, for a long space of time now elapsed, at the request of the said *C. D.* CHAP. VII.

For the lighterage of certain goods, carried and conveyed in certain lighters and other vessels of this deponent, for the said *C. D.* and at his request. (§ 25.)
Lighterage.

For work and labour, done and performed by this deponent for the said *C. D.* and at his request. (§ 26.)
Work and labour.

For work and labour, done and performed by this deponent and his servants, and with his horses carts and carriages, for the said *C. D.* and at his request. (§ 27.)
The like, by plaintiff and his servants, with horses, &c.

For work and labour done and performed, and materials found and provided, by this deponent for the said *C. D.* and at his request. (§ 28.)
Work and labour, and materials.

For wages due and payable from the said *C. D.* to this deponent, for the service of this deponent, done and performed as the hired servant of the said *C. D.* and on his retainer. (§ 29.)
Servant's wages.

For work and labour, done and performed by this deponent as a surveyor, in and about the drawing of divers plans, elevations and sections of buildings, and the surveying and superintending the erection thereof, and in and about the admeasurement and valuation of certain works, and the payment of certain workmen's bills, for the said *C. D.* and in and about other the business of the said *C. D.* and at his request. (§ 30.)
Work and labour as a surveyor.

For work and labour, care diligence and attendance, done performed and bestowed by this deponent, as a surgeon and apothecary, for the said *C. D.* and at his request, in and about the healing and curing of the said *C. D.* (and divers other persons,) of divers diseases, disorders and maladies, under which they had respectively laboured and languished; and for divers medicines and other necessary things, found and provided, administered delivered and applied by this deponent on those occasions, for the said *C. D.* and at his like request. (§ 31.)
The like, as a surgeon and apothecary.

CHAPTER VIII.

(§ 32)
The like, as an
attorney, and
for fees, where
a suit is car-
ried on.

For work and labour, care diligence and attendance, done performed and bestowed by this deponent, as the attorney and solicitor of and for the said *C. D.* and on his retainer, in and about the prosecuting, defending and soliciting of divers causes, suits and businesses for the said *C. D.* and for certain fees due and of right payable to this deponent in respect thereof.

(§ 33.)
The like, for
drawing deeds,
&c.

For work and labour, care diligence and attendance, done performed and bestowed by this deponent, in and about the drawing, copying and engrossing of divers deeds and writings for the said *C. D.* and in and about other the business of the said *C. D.* and at his request.

(§ 34.)
Money lent

For money lent and advanced by this deponent to the said *C. D.* and at his request.

(§ 35.)
Money paid.

For money paid, laid out and expended by this deponent for the said *C. D.* at his request.

(§ 36.)
Money had
and received.

For money had and received by the said *C. D.* to and for the use of this deponent.

(§ 37.)
Money lent,
laid out, and
had and re-
ceived

For money lent and advanced, and paid laid out and expended by this deponent, to and for the use of the said *C. D.* and at his request and for other money had and received by the said *C. D.* to and for the use of this deponent.

(§ 38.)
Interest of
money

For money due and payable from the said *C. D.* to this deponent, for interest upon and for the forbearance of divers large sums of money, lent and advanced by this deponent to the said *C. D.* (or due and owing from the said *C. D.* to this deponent,) and by this deponent forborne, for divers long spaces of time now elapsed, at the request of the said *C. D.*

(§ 39.)
Account stated.

For so much money due from the said *C. D.* to this deponent, upon the balance of an account stated and settled between this deponent and the said *C. D.*

(§ 40.)
By bailon and
feine, for work
and labour,
and materials

E the wife of *A. B.* of — maketh oath and saith, that *C. D.* is justly and truly indebted to the said *A. B.* and this deponent,

deponent, in the sum of —*l.* for work and labour done and performed, and materials found and provided, by this deponent, before her intermarriage with the said *A. B.* for the said *C. D.* and at his request. CHAP. VIII.

A. B. of — maketh oath and saith, that *C. D.* is justly and truly indebted to this deponent and *B. C.* as assignees of the estate and effects of *E. F.* a bankrupt, in the sum of —*l.* for goods sold and delivered by the said *E. F.* before he became bankrupt, to the said *C. D.* and at his request, as appears by the books of account of the said *E. F.* in the possession of this deponent and the said *B. C.* and as he this deponent verily believes. (§ 41.)
By assignees of a bankrupt, for goods sold.

For goods sold and delivered by this deponent and one *E. F.* in his life-time, now deceased, and whom this deponent hath survived, to the said *C. D.* and at his request (§ 42.)
By a surviving partner, for goods sold.

A. B. of — executor of the last will and testament of *E. F.* deceased, maketh oath and saith, that *C. D.* is justly and truly indebted to this deponent, as executor as aforesaid, in the sum of —*l.* for goods sold and delivered by the said *E. F.* in his life-time to the said *C. D.* as appears by the books of the said *E. F.* and as he this deponent verily believes. (§ 43.)
By an executor, for goods sold.

A. B. of — maketh oath and saith, that *C. D.* is justly and truly indebted to this deponent and *E. F.* (he this deponent and the said *E. F.* being executors of the last will and testament of *G. H.* deceased, which said *G. H.* in his life-time, and at the time of his death, was executor of the last will and testament of *J. K.* deceased,) in the sum of —*l.* for money lent and advanced by the said *J. K.* in his life-time to the said *C. D.* as appears by the books of the said *J. K.* and as he this deponent verily believes. (§ 44.)
By executor, for money lent.

On a promissory note, drawn by the said *C. D.* payable to this deponent on demand, (or at a certain day now past.) (§ 45.)
On a promissory note, payee as usual drawer.

As indorsee of a promissory note, drawn by the said *C. D.* payable to one *E. F.* or order, at a certain day now past, and by him indorsed to this deponent. (§ 46.)
Indorsee against drawer.

CHAP. VIII. As indorsee of a promissory note, drawn by *E. F.* and indorsed by the said *C. D.* to this deponent, (or to *G. H.* who indorsed the same to this deponent,) payable at a certain day now past.

(§ 47)
Indorsee
against indorser.

(§ 48.) On a bill of exchange, drawn by one *E. F.* upon and accepted by the said *C. D.* payable to this deponent, at a certain day now past.

On a bill of
exchange,
payee against
acceptor.

(§ 49.) On a bill of exchange, drawn by the said *C. D.* upon one *E. F.* and payable to this deponent, at a certain day now past.

(§ 49)
Payee against
drawer.

(§ 50.) As indorsee of a bill of exchange, drawn by one *E. F.* upon and accepted by the said *C. D.* payable to the said *E. F.* or his order, at a certain day now past, and by him the said *E. F.* indorsed to this deponent.

Indorsee
against acceptor.

(§ 51.) As indorsee of a bill of exchange, drawn by the said *C. D.* on one *E. F.* payable to the order of the said *C. D.* at a certain day now past, and by him the said *C. D.* indorsed to this deponent.

Indorsee
against drawer.

(§ 52.) As indorsee of a bill of exchange, drawn by the said *C. D.* on one *E. F.* payable to the order of the said *C. D.* and by him the said *C. D.* indorsed to this deponent, and which said bill of exchange hath been refused acceptance.

(§ 52)
The like, where
the bill has
been refused
acceptance.

(§ 53.) As indorsee of a bill of exchange, indorsed by the said *C. D.* to this deponent, (or to *G. H.* who indorsed the same to this deponent,) and payable at a certain day now past.

Indorsee
against indorser.

(§ 54.) Upon and by virtue of a certain writing or policy of assurance, whereby this deponent caused himself to be insured (amongst other things,) against loss by enemies, at and from (&c.) to (&c.) with liberty to touch at (&c.) on — pipes of wine, belonging to this deponent, valued at —*l.* including premiums of insurance, on board a certain ship or vessel called —; and which said writing or policy of assurance was and is underwritten by the said *C. D.* for the said sum of —*l.* And this deponent further saith, that the said wine hath

On a policy of
assurance.

hath been since captured and taken as prize, on board the said ship, during her said voyage, by certain enemies of our said lord the king; and that a total loss of one hundred *per cent.* on the said policy, has since been adjusted and signed by the said *C. D.* And this deponent further saith, that no offer, (&c.)

A. B. of — maketh oath and saith, that by *memorandum* in writing, bearing date, (&c.) and signed by *C. D.* the said *C. D.* did undertake and agree, that if he this deponent would credit *E. F.* with goods to the value of — *l.* he the said *C. D.* would be answerable to him this deponent for the same, to that amount: And this deponent further saith, that he confiding in the said undertaking and agreement, did afterwards sell and deliver to the said *E. F.* goods to the value of — *l.* and upwards, and did give him credit for the same: And although the time appointed for payment of the value of the said goods, by the said *E. F.* to this deponent, hath long since elapsed; yet the said *E. F.* (although often requested so to do), hath not, nor hath the said *C. D.* as yet paid the said sum of — *l.* or any part thereof to this deponent, and the same remains wholly due and unsatisfied. And this deponent further saith, that the said *C. D.* is justly and truly indebted to this deponent, in the said sum of — *l.* and by virtue of the said *memorandum*, and the undertaking and agreement therein mentioned; and that no offer, (&c.)

Upon and by virtue of certain articles of agreement, bearing date, (&c.) and made between *E. F.* of (&c.) and the said *C. D.* of the one part, and the said *A. B.* and certain other persons whose names were and are subscribed thereto, creditors of the said *E. F.* of the other part; whereby the said *E. F.* did agree to and with the said creditors, to pay and discharge the whole of their several and respective debts, (the exact amount of such debts being first ascertained and agreed on,) by four equal instalments of — in the pound each, at three six nine and fifteen months, to commence and be computed from, (&c.) And in consideration of the said creditors agreeing to accept payment of their debts by such instalments as aforesaid, the said *C. D.* thereby agreed with the said creditors, to guarantee and be accountable to them for the punctual payment

CHAP. VIII. ment of the two last instalments, which would become due respectively on the — day of — and the — day of — then next following. And this deponent further saith, that the exact amount of the debt due and owing to him this deponent hath been duly ascertained and agreed on, and that the same amounted to the sum of —*l.* And this deponent further saith that the said sum of —*l.* being part of the two last instalments in the said agreement mentioned, is still wholly due and unpaid to this deponent; and that no offer, (&c.)

(§ 57.) On a promise to pay money, in consideration of marriage. For money promised and agreed to be paid by the said *C. D.* to this deponent, for and in consideration of his having agreed to marry *E. F.* the daughter of the said *A. B.* and which said *E. F.* he this deponent did accordingly marry, at the request of the said *C. D.*

(§ 58.) On a covenant for the payment of money, and interest, &c. Upon and by virtue of a certain indenture, bearing date, (&c.) and made between the said *C. D.* of the first part, *E. F.* of the second part, and this deponent of the third part; whereby the said *C. D.* covenanted and agreed to pay to this deponent two several sums of —*l.* and —*l.* and interest for the same, and certain costs and charges, amounting in the whole to the said sum of —*l.* at a certain time now past.

(§ 59.) On the like, notwithstanding articles of agreement. For principal and interest due to this deponent, upon and by virtue of certain articles of agreement, bearing date, (&c.) and made between, (&c.) whereby the said *C. D.* covenanted and agreed to pay to this deponent the sum of —*l.* together with lawful interest for the same, at a certain day now past.

(§ 60.) On the like, notwithstanding articles of agreement. For the arrears of a certain annuity or yearly sum of —*l.* granted by the said *C. D.* to this deponent, in and by a certain indenture or partite, bearing date, (&c.) and made between the said *C. D.* of the first part, this deponent of the second part, and *E. F.* of the third part, for and during the natural lives of *G. H.* and *J. K.* and the natural life of the survivor of them; which said *G. H.* and *J. K.* are now respectively living.

(§ 61.) On the like, notwithstanding articles of agreement. Upon and by virtue of a certain charter-party of affreightment, bearing date, (&c.) for and on account of the freight and hire

hire of a certain brig or vessel called — let to hire by this CHAP. VIII.
deponent to the said *C. D.* and by him taken and used, for and
during a certain voyage from — to — and from thence to
—.

A. B. of — maketh oath and saith, that by a certain in- (s. 62)
denture of apprenticeship, bearing date, (&c.) this deponent, For money co-
by and with the consent of his father, *E. F.* of (&c.) did put him- venanted to be
self apprentice to *C. D.* of (&c.) to learn his art, and with him paid by an in-
after the manner of an apprentice to serve, from the day of the denture of ap-
date thereof, unto the full end and term of seven years then prenticeship.
next following, and, fully to be complete and ended: and the
said *C. D.* did thereby covenant, after the expiration of the
first two years of the said term, during all the remainder there-
of, to well and truly pay or cause to be paid unto this depo-
nent, for and towards his maintenance, the sum of — weekly
and every week. And this deponent further saith, that the
said *C. D.* is justly and truly indebted to him this deponent, in
the sum of —*l.* under and by virtue of the said indenture,
for and on account of the said weekly sum of — therein men-
tioned; the said *C. D.* not having paid the said sum of —*l.*
or any part thereof, to him this deponent.

A. B. of — maketh oath and saith, that *C. D.* is justly (s. 63)
and truly indebted to *E. F.* and *G. H.* as executors of the last For money co-
will and testament of *J. K.* deceased, in trust for this deponent, venanted to be
in the sum of —*l.*, for principal and interest due on a certain paid by an in-
indenture of mortgage, bearing date, (&c.) and made between denture of ap-
the said *C. D.* of the one part, and the said *J. K.* in his life- prenticeship.
time of the other part, whereby the said *C. D.* covenanted and
agreed to pay the sum of —*l.* and interest (whereof the said
sum of —*l.* is parcel,) to the said *J. K.* at a certain time
therein mentioned, and now past; and which said mortgage
and the money due thereon, have been since duly assigned by
the said *J. K.* to him this deponent.

Upon and by virtue of a judgment of this honourable court, (s. 64)
(or of the court of —,) for the said sum of —*l.* recovered On a judgment.
by this deponent against the said *C. D.* in — term last
past.

CHAP. VIII. Upon and by virtue of a certain judgment, recovered by this
 (§ 60) The like, on a
 devastavit re-
 turned against
 an administra-
 tor.
 deponent, in this honourable court, against the said *C. D.* as
 administrator of *E. F.* deceased, in — term last past; and
 that the sheriff of — to a writ of *fieri facias* issued upon the
 said judgment, hath returned *nulla bona*, and a *devastavit* by
 the said *C. D.* of the effects of the said *E. F.* deceased, to the
 amount of the said sum of —*l.* (the sum sworn to.)

(§ 66) *A. B.* of — who hath survived *B. C.* which said *A. B.* and
 By the survival
 of the said
 bankrupt, on
 a judgment
B. C. in the life-time of the said *B. C.* were assignees of the
 estate and effects of *E. F.* a bankrupt, according to the force
 and effect of the several statutes concerning bankrupts,
 maketh oath and saith, that *C. D.* is justly and truly indebted
 to this deponent, as surviving assignee as aforesaid, in the sum
 of —*l.* upon and by virtue of a judgment of this honourable
 court, for the said sum of —*l.* recovered by this deponent, as
 surviving assignee as aforesaid, against the said *C. D.*

(§ 67) *A. B.* of — one of the executors of the last will and testa-
 ment of *E. F.* deceased, maketh oath and saith, that *C. D.* is
 By executor,
 on a judgment
 recovered by
 the testator
 justly and truly indebted unto this deponent and *G. H.* as exe-
 cutors of the last will and testament of the said *E. F.* in the
 sum of —*l.* upon and by virtue of a judgment of this honour-
 able court, for the said sum of —*l.* recovered by the said
E. F. in his life-time against the said *C. D.*; and which said
 judgment is still in full force and unsatisfied, as appears by the
 record of the said judgment, and as he this deponent verily be-
 lieves.

(§ 68) For so much money awarded and ordered to be paid by the
 for money
 awarded under
 an order of
 nisi prius
 said *C. D.* to this deponent, at a certain day now past, in and
 by a certain award in writing, bearing date, (&c.) and made by
 or by *E. F.* in pursuance of a certain order of *nisi prius*, made
 by consent of this deponent and the said *C. D.*, their counsel
 and attornies, in a certain cause lately depending in His majes-
 ty's court of —, wherein this deponent was plaintiff, and the
 said *C. D.* defendant, and also in the further sum of —*l.*
 being the costs of the said cause, which by the said order of
nisi prius were ordered to be in the discretion of the said
 arbitrator, and by the said award were awarded and ordered to
 be paid by the said *C. D.* to this deponent; and which said
 sum

sum of —*l.* and the costs aforesaid, are still wholly due and unpaid to this deponent. CHAP. VIII.

For principal and interest due on a bond, bearing date, (&c.) and made and entered into by the said *C. D.* to this deponent, in the penal sum of —*l.* conditioned for the payment of —*l.* and interest, at a certain day now past. (§ 69.)
On a money bond.

— that *C. D.* is justly and truly indebted to *E. F.* in trust for this deponent, in the sum of —*l.* for principal and interest due on a bond, bearing date, (&c.) and made and entered into by the said *C. D.* to the said *E. F.* in the penal sum, (&c.) and which bond hath been since duly assigned by the said *E. F.* to this deponent. (§ 70.)
The like, for the benefit of an assignee of the bond.

A. B. of — and *C. D.* of — severally make oath and say; and first, this deponent *A. B.* for himself saith, that *E. F.* did by his bond, bearing date, (&c.) become bound unto this deponent, in the penal sum of —*l.* conditioned for the payment of the sum of —*l.* and interest, at a certain day now past: And this deponent further saith, that he did by indenture, bearing date, (&c.) for a good and valuable consideration, assign, transfer and set over unto the said *C. D.* the said bond, and all monies due and to grow due thereon; and that he this deponent hath not received the said sum of —*l.* and interest, or any part thereof, either before or since the said assignment: And this deponent *C. D.* for himself saith, that the said *E. F.* is justly indebted unto the said *A. B.* in trust for this deponent, as assignee as aforesaid, in the sum of —*l.* for principal and interest due on the said bond. (§ 71)
The like, at other ways

A. B. of — one of the assignees of the estate and effects of *E. F.* a bankrupt, maketh oath and saith, that *G. H.* did by his bond, bearing date, (&c.) become bound to *J. K.* in the sum of —*l.* conditioned for the payment of —*l.* and interest, at a certain day now past: And this deponent further saith, that the said *J. K.* did, by indenture bearing date, (&c.) for a good and valuable consideration, assign, transfer and set over the said bond, and all monies due and to grow due thereon, to the said *E. F.* who hath since become bankrupt; and that he this deponent and *C. D.* are assignees of the estate (§ 72)
By assignees of a bankrupt, for part of the money due on a bond, assigned to the bankrupt.

CHAP. VIII. title and effects of the said *E. F.* And this deponent further saith, that the said *G. H.* paid to the said *F. F.* before he became bankrupt, the sum of — *l.* in part of the money due on the said bond, by the condition thereof, but that the said *G. H.* hath not paid the residue thereof, either to this deponent, or, as he believes, to the said *J. K.* or the said *E. F.* or the said *C. D.*; and that there is now due and owing on the said bond, by the condition thereof, the sum of — *l.* for principal and interest, in which sum the said *G. H.* is now justly and truly indebted unto this deponent and the said *C. D.* as assignees as aforesaid.

(§ 33) *A. B.* of — maketh oath and saith, that *C. D.* is justly and truly indebted to *I. I.* and *G. H.* as executors of the last will and testament of *J. K.* deceased, which said *J. K.* in his life time, and at the time of his death, was surviving executor of the last will and testament of *I. K.* deceased, in the sum of — *l.* for principal and interest due on a bond, bearing date, (&c.) and made and entered into by the said *C. D.* to the said *L. M.* deceased in his life time, in the full sum of — *l.* conditioned for the payment of the sum of — *l.* and interest, at a certain day now past

(§ 34) For the near of a certain annuity, due to this deponent, upon and by virtue of a bond, bearing date, (&c.) and made and entered into by the said *C. D.* to this deponent, in the penal sum of — *l.* conditioned for the payment of the sum of — *l.* given to this deponent, by the said *C. D.* during the life of the said *C. D.* (or, if for the use of a third person, during the life of *E. F.*, who is still living)

(§ 35) *E.* the wife of *A. B.* of — maketh oath and saith, that she, by *C. D.* is justly and truly indebted to the said *A. B.* and this deponent his wife, in the sum of — *l.* for the arrears of a certain annuity or yearly sum of — *l.* upon and by virtue of a certain bond, bearing date, (&c.) and made and entered into by the said *C. D.* to this deponent, whilst she was sole and unmarried in the penal sum of — *l.* conditioned for the payment to this deponent, of the said annuity or yearly sum of — *l.* free from all deductions and abatements whatsoever, for and

and during the term of the natural lives of the said *C. D.* and *G. H.* and the life of the longest liver of them. CHAP. VIII.

A. B. of — maketh oath and saith, that *C. D.* is justly and truly indebted to this deponent and *E. F.* as administrators of all and singular the goods, chattels and credits which were of *G. H.* deceased at the time of his death, left unadministered by *J. K.* also deceased, which said *J. K.* was executor of the last will and testament of *L. M.* deceased, with the will of the said *L. M.* annexed, in the sum of —*l.* and upwards, for the arrears of a certain annuity or yearly sum of —*l.* granted by the said *C. D.* to the said *L. M.* in his life time, for and during the natural life of him the said *C. D.* and secured by a certain bond or obligation, bearing date, (&c.) and made and entered into by the said *C. D.* to the said *L. M.* in the penal sum of —*l.*, conditioned for the payment of the said annuity. (§ 76)
By administrators de bonis non of an executor, on an annuity bond.

Upon and by virtue of a certain writing obligatory, bearing date, (&c.) and made and entered into by the said *C. D.* to this deponent, in the penal sum of —*l.* conditioned for the performance of an award, to be made as in the condition of the said writing obligatory is mentioned; and also upon and by virtue of a certain award, made in pursuance of the said condition, bearing date, (&c.) whereby the said *C. D.* was awarded to pay the said sum of —*l.* to him this deponent, on a certain day now past. (§ 77)
On an arbitration bond.

The affidavits to hold to bail in debt on simple contract, are similar to those in common assumpsit; for which, vide ante, p. 91, &c. (§ 78)
In debt on simple contract.

A. B. of — maketh oath and saith, that *C. D.* did on the — day of — last past, receive of *E. F.* divers sums of money, in consideration whereof he the said *C. D.* agreed to repay to the said *E. F.* divers other sums of money, on certain chances and events, relative to the drawing of certain tickets in a certain English lottery, established by act of parliament, contrary to the form of the statute in such case made and provided; and the said *C. D.* hath thereby incurred (§ 79)
For penalties, on the lottery act.

CHAP. VIII. red — pecuniary penalties of 50*l.* each; and that this deponent intends forthwith to commence an action in this honourable court, against the said *C. D.* for the recovery of the said penalties.

(§ 80.)
In deponue, be-
fore the
rule of H. 48
Geo. III.

That *C. D.* hath in his possession, and unjustly detains from this deponent, a certain indenture of lease of this deponent, bearing date, (&c.) and made between the said *C. D.* of the one part, and this deponent of the other part, and which said indenture is of the value of — *l.* and upwards to this deponent, who hath demanded the same.

(§ 81.)
In trover for
goods, before
the same rule.

That *C. D.* hath possessed himself of divers goods and chattels of this deponent, of the value of — *l.* which he hath refused to deliver to this deponent, and hath converted the same to his own use.

(§ 92.)
The like, for
a promissory
note.

That *C. D.* hath possessed himself of a certain promissory note of this deponent, bearing date, (&c.) whereby one *E. F.* promised to pay — after the date thereof, to this deponent or order, — *l.* for value received, which said note is still unpaid; and the said *C. D.* hath refused to deliver the said note to this deponent, and hath converted the same to his own use.

(§ 93.)
The like, for a
bond.

That *C. D.* hath possessed himself of a certain bond or writing obligatory of this deponent, bearing date, (&c.) and made and entered into by one *E. F.* to this deponent, in the penal sum of — *l.* conditioned for the payment of — *l.* and interest as therein-mentioned, which said bond or writing obligatory is still wholly unsatisfied; and the said *C. D.* hath refused to deliver the said bond or writing obligatory to this deponent, and hath converted the same to his own use.

(§ 84.)
The like for
goods, since the
rule, stating
the facts spe-
cially.

A. B. of — and *E. F.* of — severally make oath and say; and first, this deponent *A. B.* for himself saith, that on or about the — day of — last, he this deponent deposited the several articles of household furniture, wearing apparel, goods chattels and effects, mentioned and set forth in the notice

rice and demand hereunto annexed, being the property of this deponent, and of the value of — *l.* and upwards, with *C. D.* of —, to be safely kept by the said *C. D.* for this deponent until he should have occasion for the same. And this deponent further saith, that he hath frequently demanded the said articles of household furniture, wearing apparel, goods chattels and effects, of and from the said *C. D.* and caused the same to be demanded of him by other persons for this deponent; but the said *C. D.* hath hitherto refused to deliver up the same, or any part thereof, to this deponent, and unjustly detains the same. And this deponent *E. F.* for himself saith, that he did on the — day of — instant, serve the said *C. D.* with a true copy of the notice hereunto annexed, by delivering the same to a person who told deponent she was the servant of the said *C. D.* at his the said *C. D.*'s house, situate at — aforesaid; but that the said *C. D.* hath not delivered the said articles of household furniture, wearing apparel, goods chattels and effects, or any part thereof, to him this deponent.

A. B. of — late a mariner on board the ship — whereof *C. D.* was master and commander, and *E. F.* of — late carpenter on board the said ship, severally make oath and say; and first, this deponent *A. B.* for himself saith, that on or about the — day of — last, whilst the said ship was lying in the harbour of — the said *C. D.* came into the steerage of the said ship, where this deponent then was, and without any provocation whatever, laid hold of this deponent by the collar, and with great force and violence knocked him down, &c. (here describe the circumstances of the assault): And this deponent *E. F.* for himself saith, that he was present at the time when the said *C. D.* so came into the steerage of the said ship as aforesaid, and did see the said *C. D.* assault and ill-treat the said *A. B.* in manner by him above set forth; and that he this deponent did not hear or see the said *A. B.* say or do any thing to the said *C. D.* to merit or deserve such ill-treatment: And this deponent *A. B.* for himself further saith, that he hath been informed and verily believes, that the said *C. D.* is a person in good circumstances, and well able to make this deponent

(y 80)
For in assault
on board a
ship.

CHAP. VIII. deponent satisfaction for the said ill-treatment; and he hath also been informed and verily believes, that the said *C. D.* will soon depart this realm; and that unless he shall be held to bail, this deponent may be deprived of that remedy to which he thinks himself entitled by the laws of this country.

Sworn, (&c.)

CHAP. IX.

Of the WARRANT to ARREST.

— (to wit). *P. B.* I, *Justice*, Sheriff of the county afore-^(§ 1) said, to the keeper of the gaol of the said county, and also ^{Warrant to ar-} to *G. H.* and *J. K.* my bailiffs in the said county, greeting. ^{rest, in K. B. or} By virtue of a precept called a bill of *Middlesex*, (or of a writ ^{C. P.} of our sovereign lord the king to me directed,) I command you, and every of you, jointly and severally, that you or one of you take *C. D.* if he shall be found in my bailiwick, and him safely keep, so that I may have his body before the lord the king at *Westminster*, on — next after —, (or by *original* in K. B. “on — wheresoever the said lord the king shall then be in *England*,” or in C. P. “before the justices of the said lord the king at *Westminster*, on —,”) to answer *A. B.* of a plea of trespass, and also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for — *l.* upon promises, (or as the *action* is,) a counting, &c. (or by *original* in K. B. “to answer *A. B.* of a plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.*” or as the plea is; or in C. P. “to answer *A. B.* of a plea of trespass, and also of a plea, &c.” as in the writ). Hereof fail not, as you will answer it your peril. Given under the seal of my office, this — day of — 18—

By the same sheriff.

Bail for — *l.*

L. M. attorney.

Writ dated the — day of — 18—.

Beware the defendant is not privileged, or protected.

This warrant is allowed for one defendant, and no more; and to be executed by no bailiffs, but those who have given the said sheriff security.

CHAP. IX. — (to wit). *E. F.* Esquire, sheriff, &c. (as in the last):

(§ 2)
The like in the
Exchequer, on
a writ de quo
minus, or writ
of attachment

By virtue of the king's writ to me directed, I command you, and each and every of you, jointly and severally, that you or any of you, omit not by reason, &c. but enter the same, and take *C. D.* if he shall be found in my bailiwick, and him safely keep, so that I may have his body before the barons of the king's Exchequer at *Westminster*, on — next coming, to answer *A. B.* the king's debtor, of a plea of trespass, whereby, &c. (on a *quo minus*, or on a writ of attachment, "to answer the lord the king, concerning divers trespasses contempts and offences, by him lately done and committed.") Given under the seal of my office, this — day of — 18—.

If on an attachment, say: At the instance, &c. (as in p. 86.)

Writ issued the — day of — 18—.

Bail for —.

E. F. Solicitor. *G. H.* *E. F.* Esquire, sheriff.

Beware that the defendant is not privileged, or protected.

(§ 3)
The like, on a
plures copias,
with a clause of
proclamation.

— (to wit) *E. F.* Esquire, sheriff, &c. (as before): By virtue of the king's writ to me directed, I command you, and each and every of you, jointly and severally, that you or any of you omit not by reason, &c. but that you or one of you cause public proclamation to be made, in all places within my bailiwick, that *C. D.* do upon his allegiance, personally appear before the barons of the king's Exchequer at *Westminster*, on — next coming; and in the mean-time, if you can find the said *C. D.* that you attach him by his body, so that I may have him before the aforesaid barons, at the day and place aforesaid, to answer his majesty, concerning divers trespasses contempts and offences, by him lately done and committed: Hercof fail not, as you will answer at your peril. Given under the seal of my office, the — day of — 18—.

At the instance of *A. B.* &c. (as before, p. 86.)

Writ issued the — day of — 18—.

Bail for —.

E. F. Solicitor. *G. H.* *E. F.* Esquire, sheriff.

CHAP. X.

Of the BAIL-BOND, &c.

KNOW all men by these presents, that we *C. D.* of ——— (§ 1.)
E. F. of ——— and *G. H.* of ——— are held and firmly bound to Bail-bond to the sheriff, in K. B.
 ——— Esquire, sheriff of the county of ———, in the sum of ———*l.*
 (double the sum indorsed on the writ,) of lawful money of
Great Britain, to be paid to the said sheriff, or his certain at-
 torney, executors, administrators or assigns; for which pay-
 ment well and truly to be made, we bind ourselves, and each
 of us for himself, in the whole, our and every of our heirs,
 executors and administrators, firmly by these presents: Seal-
 ed with our seals. Dated the ——— day of ——— in the ———
 year of the reign of our sovereign lord *George* the Third, by
 the grace of God of the united Kingdom of *Great Britain*
 and *Ireland* king, defender of the faith, and in the year of
 our Lord 18—.

The condition of this obligation is such, that if the above-
 bounden *C. D.* do appear before our sovereign lord the king
 at *Westminster*, on ——— (or by *original* in K. B. “on ———
 wheresoever, &c.”) to answer *A. B.* of a plea of trespass, and
 also to a bill, &c. (as in the *acc-e iam*,) according, &c. (or by
original in K. B. “to answer *A. B.* of a plea of, &c.” as the
 plea is,) then this obligation to be void, otherwise to remain
 in full force and virtue.

Sealed, (&c.)

In the Common Pleas, the condition of the bond is, to ap-
 pear before his majesty’s justices at *Westminster*, on ———, to (§ 2.)
 answer *A. B.* of a plea of trespass, &c. (or as the plea is). The like, in C. P.

In the Exchequer, the condition of the bond, on a writ of (§ 3.)
quo minus, is to appear before the barons of his majesty’s The like, in the Exchequer.
 court of Exchequer at *Westminster*, on ——— next coming, to
 answer to *A. B.* the king’s debtor, of a plea of trespass,
 whereby

CHAP. X. whereby he is the less able, &c. ; or on process for contempt, to appear before the barons, (&c.) to answer our said lord the king, of divers trespasses contempts and offences, by him lately done and committed.

(§ 4)
Affidavit of
money being
deposited in
the sheriff's
hands, &c. un-
der the 43 Geo.
III. c. 40 § 2.
in order to be
being paid over
to the plaintiff

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

A. B. plaintiff,
and
C. D. defendant.

E. F. of — gentleman, attorney for the above-named plaintiff, maketh oath and saith, that the above-named defendant was arrested by the sheriff of —, at the suit of the above-named plaintiff, by virtue of a writ of — issuing out of this honourable court, returnable on, (&c.) in this present — term: And thereupon the said defendant, in lieu of giving bail to the sheriff, deposited in his hands the sum of —*l.* being the sum indorsed upon the said writ, together with 10*l.* in addition thereto for costs; and which said several sums of money have been since paid into court by the said sheriff: And this deponent further saith, that no bail above has been put in for the defendant in this cause, (or that bail above was put in, (&c.) but that the same was not perfected.)

Sworn, (&c.)

E. F.

(§ 5.)
Rule of court
thereon, in
h. B.

— on (or next after) — in the — year of king
George the Third.

B. } Upon reading the rule, (&c.) it is ordered, that the
v. } sum of —*l.* deposited in the hands of the sheriff of the
D. } county of —, by the defendant, on his arrest in this
cause, in lieu of bail, and since brought into court by the
said sheriff, in pursuance of the statute of the forty-third of
his present majesty, Chapter forty-sixth, be paid out of court,
to the *plaintiff* or his attorney; subject to the usual deduc-
tions, in paying in and taking the same out of court, and the
taxation of costs by the master; the defendant *not* having
put in and perfected bail in this action. Upon the motion of
Mr. —.

By the Court.

The above form will serve for the payment of money out of court to the defendant, when he has put in and perfected bail; leaving out the words in *italics*, and substituting *defendant* for *plaintiff*, in line 7.

CHAP. XI.

Of APPEARANCE, and BAIL to the ACTION.

— (to wit.) Appearance for *C. D.* at the suit of *A. B.* (§ 1.)
to a *capias*, returnable, (&c) Note of appearance by original writ, in K. B. or C. P.
E. F. attorney.
— 18—.

(to wit.) The sheriff was commanded, that he should (§ 2)
take *C. D.* late of — if, &c. and him safely keep, so that he Entry of common appearance by original writ, in K. B.
might have his body before our lord the king, on — where-
soever, &c. to answer to *A. B.* of a plea, &c. (as in the *capias*,
to the words “ as it is said.”) And the said *C. D.* by *E. F.*
his attorney, prays that his appearance thereupon may be
recorded by the court here ; and it is recorded, &c.

— term, in the — year of the reign of king (§)
George the Third. Common bail-piece by bill, in K. B.
Law & Mankham.

— (to wit.) *C. D.* having been served with process, is de-
livered to bail to

John Doe, of — yeoman,
and

Richard Roe, of the same place
yeoman,

E. F. attorney at the suit of *A. B.*

— 18—.

If common bail be filed by the plaintiff, according to the
statute, these words should be written on the bail-piece,
“ Filed according to the statute.”

In the King’s Bench, *A. B.* plaintiff, (§ 4)
(Common Pleas, or and Affidavit of
Exchequer of Pleas.) *C. D.* defendant. service of pro-
cess against the person

E. F. of — gentleman, maketh oath and saith, that he
this deponent did on the — day of — instant, (or last,) per-
sonally serve the above-named defendant, with a true copy of
a bill of *Middlesex*, (or *latitat*, or writ of *capias ad responden-*
dum,

CHAP. XI. *dum*, or *quo minus*, &c.) which appeared to this deponent to have been regularly issued out of this honourable court, against the said defendant, at the suit of the above plaintiff, and returnable before the lord the king at *Westminster*, on — next after — ; (or by *original* in K. B. on — where-soever, &c. ; or in C. P. before his majesty's justices at *Westminster*, on — ; or in the Exchequer, before the barons of his majesty's Exchequer at *Westminster*, on — next coming;) under which said copy was written an *English* notice to the said defendant, of the intent of such service, pursuant to the statute in such case made and provided.

Sworn, (&c.)^r

E. F.

(§ 5.)
Special bail
piece, by bill
in K. B.

In the King's Bench.

— term, 'in the — year of the reign of king
George the Third.

Law & Markham.

— (to wit). *C. D.* is delivered to bail, upon a *cepi corpus*, to

E. F. of —

and

G. H. of —

Oath — *l.*

at the suit of *A. B.*

L. M. attorney.

— 18—.

Taken and acknowledged condition-
ally, at my chambers, in *Serjeant's-inn*,
Chancery-lane, this — day of —
18—, before me

(§ 6.)
Filer's entry
of special bail
by original, in
K. B.

— (to wit). *Capias, C. D.* late of — at the suit of *A. B.*
of a plea of trespass on the case, to the damage of the said
A. B. of — *l.* (or as the plea is).

Bail, *E. F.* of — and *G. H.* of —.

Each of whom is bound in — *l.*

L. M. attorney for defendant.

In the Common Pleas.

CHAP. XI.

— term, in the — year of the reign of king
George the Third.

(§ 7)
The like, in
C. P.

— (to wit). *Capias*, (or *testatum capias* into —) against
C. D. late of — at the suit of *A. B.* for — *l.* upon pro-
mises, (or as the plea is,) returnable on —.

Affidavit for — *l.*The bail are, *E. F.* of —

and

G. H. of —.Each of them in — *l.**L. M.* attorney for defendant.

Taken and acknowledged, (&c)

You (naming the bail,) do jointly and severally undertake,
that if *C. D.* shall be condemned in this action, at the suit of
A. B. he shall satisfy the costs and condemnation, or render
himself to the custody of the marshal of the *Musshalsea* of
the court of King's Bench, or you will do it for him.

(§ 8.)
Recognition
of bail by bill,
in K. B.

Are you content?

In the King's Bench,
(or Common Pleas.)

A. B. plaintiff,

and

C. D. defendant.

(§ 9.)
Notice of bail
being put in,
in K. B. or
C. P.

Take notice, that special bail was this day put in (if by tri-
ginal, in K. B. or C. P. say, "put in with the filacer,") for the
defendant in this cause, before the honourable Mr. Justice
— at his chambers in *Seijeant's Inn, Chancery lane, Lon-
don*; and the names and additions of such bail are, *E. F.* of
— and *G. H.* of —. Dated the — day of — 18—.

Your's, &c.

L. M. defendant's attorney.To Mr. *I. K.* plaintiff's attorney.

If the bail in K. B. are the same as to the sheriff, then add,
"and they are the same as are bail to the sheriff."

In the Exchequer of Pleas.

A. B. plaintiff,

and

C. D. defendant.

(§ 10.)
Notice of put-
ting in and jus-
tifying bail, in
the Exchequer.

Take notice, that special bail will be put in for the defen-
dant in this cause, on — next, in open court at *Westminster*;

I.

and

CHAP. XI. and that the names of the bail will be, *E. F.* of — and *G. H.* of —, and that they will at the same time justify themselves as good and sufficient bail for the said defendant.

Your's, &c.

L. M. defendant's clerk in court.

To Mr. *J. K.* plaintiff's clerk in court.

(§ 11)
Special bail-
piece, before a
commissioner,
in *L. B.*

— term, in the — year of the reign of king
George the Third.

— (to wit). *C. D.* of — is delivered to bail on a
cepi corpus, to

E. F. of —

and

G. H. of —

Oath — *l.*

at the suit of *A. B.*

L. M. attorney for defendant.

Taken and acknowledged conditionally,
the — day of — 18—, before me — }
one of the commissioners, &c.

(§ 12)
The like in
C. P. to be
written on a
copy of the
writ on parch-
ment

The bail are, *E. F.* of —

and

G. H. of —

Each of them in — *l.*

L. M. attorney for defendant.

Taken and acknowledged, (&c)

(§ 13)
The like, in the
Exchequer

In the Exchequer of Pleas

— term, in the — year of the reign of king
George the Third.

— (to wit) *C. D.* is delivered to bail, on a *cepi corpus*,
&c. (as in the King's Bench.)

Oath for — *l.* and upwards

G. H. defendant's solicitor.

Taken and acknowledged conditionally,
at —, the — day of — 18—, before }
me — by commission.

E. F.
G. H.

And note, that in the Common Pleas and Exchequer, the
bail sign the bail-piece; but not in the King's Bench.

You

You (naming the bail,) do severally acknowledge to owe **CHAP. XI.**
unto *A. B.* the sum of — *l.* apiece, to be levied upon your **(§ 14)**
several goods and chattels, lands and tenements, upon condi-
tion, that if *C. D.* be condemned in the said action, he shall
pay the condemnation, or render himself a prisoner to the
Fleet for the same; and if he fail so to do, you (naming the
bail,) do undertake to do it for him. **Recognizance
of bail, before
commissioner,
in C. P.**

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

A. B. plaintiff,
and
C. D. defendant.

(§ 15)
Affidavit of
caption of bail,
before a com-
missioner.

L. M. of — maketh oath and saith, that the recognizance
of bail or bail-piece hereunto annexed, was duly taken and
acknowledged by *E. F.* of — and *G. H.* of — the bail
therein named, before — Esquire, the commissioner who
took the same, in this deponent's presence, the — day of
— instant, (or last past).

Sworn, (&c.)

L. M.

In the King's Bench.

A. B. plaintiff,
and
C. D. defendant.

(§ 16)
Notice of the
bail-piece and
affidavit, taken
before a com-
missioner, be-
ing filed, in
K. B.

Take notice, that the bail-piece in this cause, with the
affidavit of the due taking thereof, was this day filed with the
honourable Mr. Justice — at his chambers in *Serjeant's-
Inn, Chancery-lane, London.* Dated the — day of —
18—.

Your's, &c.

L. M. defendant's agent.

To Mr. *I. K.* plaintiff's agent.

In the Common Pleas.

A. B. plaintiff,
and
C. D. defendant.

(§ 17.)
The like, in
C. P.

Take notice, that special bail was on the — day of —
instant, put in for the above-named defendant, before —
Esquire, a commissioner appointed to take special bails in and
for the county of —; and the names of the bail are *E. F.*
of — and *G. H.* of —, which have been allowed by the
honourable Mr. Justice —; and the bail-piece, together

CHAP. XI. with the affidavit of the due taking thereof, is filed with the filacer of the said county. Dated the — day of — 18—.

Your's, &c.

L. M. defendant's agent.

To Mr. *I. K.* plaintiff's attorney,
(or agent.)

(§ 18.)

Notice of excep-
tion to bail, in
K. B. or C. P.

I except against these bail.

I. K. plaintiff's attorney.

— 18—.

(§ 19.)

Notice of ex-
ception.

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas).

A. B. plaintiff,
and
C. D. defendant.

I have excepted against the bail put in for the defendant in this cause.

Your's, &c.

I. K. plaintiff's attorney,
(or clerk in court).

To Mr. *L. M.*
defendant's attorney, (&c.)

— 18—.

(§ 20.)

Notice of justi-
fication, by the
same bail.

In the King's Bench, (&c.)

A. B. plaintiff,
and
C. D. defendant.

Take notice, that the bail already put in for the defendant in this cause, and of whom you have before had notice, will on — next, justify themselves in open court, at *Westminster-hall*, in the county of *Middlesex*, as good and sufficient bail for the said defendant. Dated this — day of — 18—.

Your's, &c.

L. M. defendant's attorney, (&c.)

To Mr. *I. K.* plaintiff's attorney, (&c.)

If the bail were put in before a commissioner, the notice should express that they will justify themselves "by affidavit."

(§ 21.)

Notice of add-
ition, and justify-
ing different
bail.

In the King's Bench, (&c.)

A. B. plaintiff,
and
C. D. defendant.

Take notice, that — of — and — of — will on — next, add themselves to the bail already put in for the defendant in this cause; and at the same time will justify themselves

themselves in open court, at *Westminster-hall*, in the county of *Middlesex*, as good and sufficient bail for the said defendant. Dated the — day of — 18—. CHAP. XI.

Your's, &c.

L. M. defendant's attorney, (&c.)

To Mr. *I. K.* plaintiff's attorney, (&c.)

In the King's Bench, (&c.)

A. B. plaintiff,

and

C. D. defendant.

(§ 22)
Notice of adding one bail, and justifying.

Take notice, that — of — will on — next, add himself to the bail already put in for the defendant, in this cause; and that he, together with *G. H.* one of the bail already put in for the said defendant, and of whom you have before had notice, will at the same time justify themselves in open court, at *Westminster-hall*, in the county of *Middlesex*, as good and sufficient bail for the said defendant. Dated the — day of — 18—.

Your's, &c.

L. M. defendant's attorney, (&c.)

To Mr. *I. K.* plaintiff's attorney, (&c.)

In the King's Bench, (&c.)

A. B. plaintiff,

and

C. D. defendant.

(§ 23.)
Affidavit of service of justification.

I. T. of — clerk to *L. M.* gentleman, attorney for the defendant in this cause, maketh oath and saith, that he this deponent did, on the — day of — instant, personally serve Mr. *I. K.* the plaintiff's attorney, with a true copy of the notice hereunto annexed. (If the notice be served on the clerk or servant of the plaintiff's attorney, say, "serve Mr. *I. K.* the plaintiff's attorney in this cause, with a true copy of the notice hereunto annexed, by delivering the same to the clerk (or servant) of the said *I. K.* at his house, or chambers, in —.")

I. T.

Sworn, (&c.)

In the Exchequer of Pleas.

A. B. plaintiff,

and

C. D. defendant.

(§ 24)
The like in the Exchequer, where the bail is taken before a commissioner.

I. M. of the Exchequer office of pleas, *Lincoln's-Inn*, in the county of *Middlesex*, gentleman, maketh oath and saith,

that

CHAP. XI. that he did, on the — day of — instant, (or last,) serve *I. K.* the plaintiff's attorney in this cause, with a notice in writing, purporting that *E. F.* of — and *G. H.* of — the bail already put in for the defendant in this cause, and of whom he before had notice, would on the — day of — instant, justify themselves by affidavit in open court, at *Westminster-hall*, in the county of *Middlesex*, as good and sufficient bail for the said defendant, by placing such notice upon the seat of the said Mr. *I. K.* in the Exchequer office aforesaid, and leaving the same there.

L. M.

Sworn, (&c.)

In the King's Bench, (&c.)

A. B. plaintiff,

and

C. D. defendant.

(§ 25.)
Affidavit of justification of bail, put in before a commissioner in the country.

E. F. of — and *G. H.* of — b for the defendant in this cause, severally make oath and say; and first, this deponent *E. F.* for himself saith, that he is a housekeeper in — aforesaid; and that he this deponent is worth the sum of — *l.* (double the sum sworn to,) over and above what will pay all his debts: And this deponent *G. H.* for himself saith, that he is a housekeeper in —, and is worth the sum of — *l.* over and above what will pay all his debts.

E. F.

G. H.

Sworn, (&c.)

In the King's Bench, (&c.)

A. B. plaintiff,

and

C. D. defendant.

(§ 26.)
Affidavit to oppose bail.

I. S. of — clerk to Mr. *I. K.* attorney for the plaintiff in this cause, maketh oath and saith, that Mr. *L. M.* attorney for the defendant in this cause, having served the said *I. K.* with notice of justifying bail in this action, he this deponent, by the order and directions of the said *I. K.* inquired into the sufficiency of the bail intended to be justified for the said defendant; and saith, that *G. H.* one of the said bail hath been a bankrupt, and hath not yet obtained his certificate, as this deponent hath been informed and verily believes, (or otherwise, according to the fact.)

I. S.

Sworn, (&c.)

A. B.

A. B. } Upon reading the affidavit of *G. H.* it is ordered, CHAP. XI.
(§ 27.)
v. } that the bail put in for the defendant in this cause, Rule for the
allowance of
C. D. } who have this day justified themselves in court, be al- bail, in K. B.
 lowed, and (if by bill,) the bail-pledge filed. Upon the motion
 of Mr. —.

By the Court.

As yet of — term, (the term of which the declaration (§ 28.)
 is intituled,) in the — year of the reign of king *George* Entry of recog-
nizance of bail
by bill, in K. B.
 the Third. Witness *Edward Lord Ellenborough*.

Law & Markham.

— (to wit.) Be it remembered, that on — next after
 — in this same term, before our lord the king at *Westmins-*
ter, comes *A. B.* by — his attorney, and brings into the
 court of our said lord the king, before the king himself, now
 here, his certain bill against *C. D.* being in the custody of
 the marshal of the marshalsea of our said lord the king, before
 the king himself, of a plea of trespass on the case, (or as the
 plea is,) and there are pledges for the prosecution thereof, to
 wit, *John Doe* and *Richard Roe*; which said bill follows in
 these words, that is to say: — (to wit) *A. B.* complains
 of *C. D.* &c. (here copy the declaration to the end, omitting
 the pledges, and proceed on a new line, as follows:)

And the said *C. D.* by — his attorney, comes and defends
 the wrong and injury, when, &c. And thereupon *E. F.* of —
 and *G. H.* of — come into the court of our said lord the king
 before the king himself now here, in their proper persons, and
 become pledges and bail, and each of them becomes pledge
 and bail for the said *C. D.* that if the said *C. D.* shall hap-
 pen to be convicted, at the suit of the said *A. B.* in the plea
 aforesaid, then the said bail consent, and each of them con-
 sents, that all such damages (or in debt, that as well the said
 debt, as all such damages) as shall be adjudged to the said
A. B. in this behalf, shall be made of their, and each of their
 lands and chattels, and levied to the use of the said *A. B.* if
 it shall happen that the said *C. D.* shall not pay the said da-
 mages, (or in debt, the said debt and damages,) or render
 himself to the prison of the marshal of the marshalsea of our
 said lord the king, before the king himself, on that occa-
 sion.

(As

CHAP. XI. (As in the last, to the end of the declaration, and then as follows :) .

(§ 29.)
The like, where
a prisoner is
bailed in vaca-
tion, on stat.
41 Geo III
c 16 § 6. in
K. B.

And the said *C. D.* in his proper person, comes and defends the wrong and injury, when, &c. And thereupon afterwards, that is to say, on the — day of — in the — year of the reign of our said lord the king, *E. F.* of — and *G. H.* of — come in their proper persons, before the honourable —, one of the justices of our said lord the king, assigned to hold pleas in the said court of our said lord the king, before the king himself, at his chambers in *Serjeant's-Inn, Chancery-lane, London*, and then and there, according to the form of the statute in such case made and provided, (he the said *C. D.* then and there being a prisoner, in the custody of the marshal of the marshalsea of our said lord the king before the king himself, at the suit of the said *A. B.* in the plea aforesaid,) that if the said *C. D.* shall happen to be convicted, &c. (as in the last.)

(§ 30.)
The like, by
original, in
K. B.

As yet of — term, (the term wherein the process, upon which the defendant was arrested, was returnable,) in the — year of the reign of king *George the Third*.
Witness *Edward Lord Ellenborough*.

Law & Markham.

— (the county or city where the bail was put in,) to wit. The sheriff was commanded, that he should take *C. D.* late of — if he should be found in his bailiwick, and him safely keep, so that he might have him before the lord the king, on — wheresoever the said lord the king should then be in *England*, to answer *A. B.* &c. (as in the *capias*, to the words, “as it is said;” and if there was an *alias*, proceed as follows) : Whereupon the sheriff of — to wit, — Esquire, did return to the said lord the king, before the king himself, that the said *C. D.* was not found in his bailiwick : And thereupon the said sheriff was commanded, as before, that he should take the said *C. D.* if he should be found in his bailiwick, and him safely keep, so that he might have him before the said lord the king, on — wheresoever the said lord the king should then be in *England*, to answer the said *A. B.* in the plea aforesaid : At which day, that is to say, on — before the said lord the king at *Westminster*, the said *A. B.* comes in his proper person, and offers himself on the fourth day against the said *C. D.* in the plea aforesaid ; and the said *C. D.* by — his attorney also

also comes, and defends the wrong and injury, when, &c. **CHAP. XI.**
 And thereupon at the same day *E. F.* of — and *G. H.* of — come here into the court of the said lord the king, before the king himself, at *Westminster*, in their proper persons, and become pledges and manucaptors, and each of them by himself becomes pledge and manucaptor, for the said *C. D.*, and acknowledge themselves to owe, and each of them doth acknowledge himself to owe, to the said *A. B.* the sum of —*l.* and do submit and grant for themselves and their heirs, and each of them doth submit and grant for himself and his heirs, that the said sum of —*l.* shall and may be made of their, and each of their, lands and chattels, and levied to and for the use of the said *A. B.* in case the said *C. D.* shall happen to be convicted in the plea aforesaid, at the suit of the said *A. B.* and if the said *C. D.* shall not pay and satisfy unto the said *A. B.* all such damages, costs and charges (or in *debt*, as well the said debt or sum of —*l.* as all such damages, costs and charges) as shall be adjudged to the said *A. B.* in the plea aforesaid, or render himself to the custody of the marshal of the marshalsea of the said lord the king, before the king himself, on that occasion. *Kenyon.*

The entry (or further entry) of *I. K.* gentleman, one, &c. of — term, — *George* the third. (§ 31.)
 Docket-paper, in K. B.

Entry of recognizance of bail, by *E. F.* and *G. H.* bail of *C. D.* defendant, at the suit of *A. B.* plaintiff. Roll—

— term, in the — year of the reign of king *George* the Third. (§ 32.)
 Entry of recognizance of bail, in C. P.

Middlesex (to wit). The sheriff was commanded, that he should take *C. D.* if he should be found in his bailiwick, and him safely keep, so that he might have his body before the justices of the lord the king at *Westminster*, on —, to answer *A. B.* in a plea wherefore, with force and arms, the close of the said *A. B.* at — he broke, and other wrongs, &c. to the great damage, &c. and against the peace, &c. and also in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of —*l.* (or in *debt*, “in a certain plea of debt upon demand for —*l.*”) And now here on this day, to wit, on the — day of — in this same term, *E. F.* of — and *G. H.* of — come in their proper persons, before Sir *Vicary Gibbs* knight and his companions, justices of the lord the king of the bench here, and acknowledge them-

CHAP. XI. selves, and each of them doth acknowledge himself, to owe to the said *A. B.* the sum of —*l.* ; which said sum of —*l.* the said *E. F.* and *G. H.* for themselves and their heirs do consent and grant, and each of them for himself and his heirs doth consent and grant, shall be made of their and each of their lands and chattels, and to the use and behoof of the said *A. B.* be levied ; upon this condition, that if judgment shall happen to be given in the same court here, in the said plea, for the said *A. B.* against the said *C. D.* then the said *C. D.* shall satisfy all such damages (or in *debt*, the debt aforesaid, and all such damages) as shall be adjudged to the said *A. B.* against the said *C. D.* in the same court here, in the plea aforesaid, or shall render his body on that occasion to the prison of the Fleet, &c.

(§ 33.)
The like, on a
recognizance
taken before a
commissioner,
in C. P.

— term, in the — year of the reign of king *George*
the Third.

— (to wit). The sheriff of — was commanded, that he should take *C. D.* if he should be found in his bailiwick, and him safely keep, so that he might have his body before the justices of our lord the king of the bench at *Westminster*, on —, to answer *A. B.* in a plea wherefore, with force and arms, the close of the said *A. B.* at — he broke, and other wrongs, &c. to the great damage, &c. and against the peace, &c. and also in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of —*l.* : And afterwards, to wit, on the — day of — in the year of our Lord 18—, at — in the county of —, came *E. F.* of — and *G. H.* of — in their proper persons, before *J. K.* Esquire, then and there being a commissioner duly appointed and empowered, by the justices of our said lord the king of the bench at *Westminster* in the county of *Middlesex*, to take and receive all and every such recognizance or recognizances of bail or bails, in and for the said county of —, as any person or persons should be willing or desirous to acknowledge or make before him, in any action or suit depending in the said court of our said lord the king of the bench at *Westminster* aforesaid, according to the form of the statute in such case made and provided ; and then and there, before the said *J. K.* so being such commissioner as aforesaid, became pledges and bail for the said *C. D.* and then and there acknowledged themselves,

selves, and each of them did acknowledge himself, to owe to the said *A. B.* the sum of —*l.*; which said sum of —*l.* they the said *E. F.* and *G. H.* for themselves and their heirs, and each of them for himself and his heirs, consented and granted, should be made of their and each of their lands and chattels, and levied to the use of the said *A. B.* upon this condition, that if judgment should happen to be given in the same court here, for the said *A. B.* against the said *C. D.* in the said plea, then the said *C. D.* should satisfy all such damages as should be adjudged to the said *A. B.* against the said *C. D.* in the said court here, in the plea aforesaid, or should render his body on that occasion to his majesty's prison of the *Fleet*: which said recognizance afterwards, to wit, on — next after — in this same — term, in the — year of the reign of our said lord the now king, was duly transmitted by the said *J. K.* so being such commissioner as aforesaid, to the right honourable Sir *Vicary Gibbs* knight, then and still being chief justice (or to the honourable —, then and still being one of the justices) of the said court of our said lord the king of the bench aforesaid, at his chambers situate in *Sevjeant's Inn, Chancery lane, London*, and is now by him the said chief justice, (or justice,) in this same — term, in the — year aforesaid, brought into this court here, to be enrolled and recorded; and thereupon the said recognizance, at the request of the said *A. B.* is duly enrolled and recorded in this court here, &c.

In the Exchequer of Pleas.

— term, in the — year of the reign of king
George the Third.

— (to wit). Be it remembered, that on the — day of — in this same term, before the barons of this Exchequer at *Westminster*, comes *A. B.* a debtor to our sovereign lord the king, by *E. F.* his attorney; and complains by bill, against *C. D.* present here in court the same day, of a plea of trespass on the case, &c the tenor of which said bill follows in these words, that is to say: — (to wit). *A. B.* a debtor, &c. (here copy the bill *verbatim*, and proceed on a new line as follows:)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and thereupon come also here into court, *E. F.* of — and *G. H.* of — and become

(§ 31.)
Entry of recognizance of bail by *quo minus*, in the Exchequer.

CHAP. XI. come pledges and manucaptors, and each of them by himself becomes pledge and manucaptor, for the said *C. D.* that if it shall happen that the said *C. D.* shall be convicted in the plea aforesaid, then the said manucaptors grant, and each of them by himself doth grant, that all such damages as shall be adjudged to the said *A. B.* in this behalf, shall be made of their and each of their lands and chattels, and levied to the use of the said *A. B.* if it shall happen that the said *C. D.* shall not pay the said damages to the said *A. B.* or render himself to his majesty's prison of the *Fleet* on that occasion.

(§ 35) Be it remembered, that on the — day of — in the —
 The like, on an attachment for contempt. year of the reign, (&c.) before the honourable Sir *Alexander Thomson* knight, chief baron of his majesty's court of Exchequer at *Westminster*, came *C. D.* of — *E. F.* of — and *G. H.* of —; and the said *C. D.* acknowledged himself to owe to our said lord the king, the sum of — of lawful money of *Great Britain*; and the said *E. F.* and *G. H.* acknowledged themselves respectively to owe to our said lord the king, the sum of —*l.* of like lawful money; upon condition, that the said *C. D.* shall personally appear in his said majesty's court of Exchequer at *Westminster*, on — next coming, to answerably such matters and things as shall be then and there objected against him, and so from day to day, till he shall be discharged the same court; neither shall he depart therefrom, without the leave of the same court first had and obtained; then this recognizance to be void, or else to remain in full force and virtue.

Taken and acknowledged at —, the —	}	<i>C. D.</i>
day of —, 18— before me,		<i>E. F.</i>
<i>Alexander Thomson.</i>		<i>G. H.</i>

The within-named *C. D.* justified to the sum of —*l.* and *E. F.* and *G. H.* to the sum of —*l.* each, this — day of — 18—, before me,
Alexander Thomson.

(§ 36.)
 Entry or minute of render and commitment, in K. B

In the King's Bench.

A. B. plaintiff,
 and
C. D. defendant.

— (to wit). *C. D.* the above defendant did this — day of — 18—, render himself (or was rendered) in discharge of
 his

his bail, at the suit of the above plaintiff, and was thereupon
committed by Mr. Justice — to the custody of the marshal,
&c. there to remain until, &c. CHAP. XI.

In the King's Bench,
(or Common Pleas).

A. B. plaintiff, (§ 37.)
and Notice of ren-
C. D. defendant. der, in K. B. or
C. P.

Take notice, that the above defendant did this day render
himself (or was this day rendered) in discharge of his bail, at
the suit of the above plaintiff, and was thereupon committed by
the honourable Mr. Justice — to the custody of the marshal,
&c. (in K. B. ; or in C. P. to his majesty's prison of the Fleet,)
there to remain until, &c. Dated the — day of — 18—.

Your's, &c.

L. M. attorney for de-
fendant (or for the bail,
as the case may be).

To Mr. *I. K.* plaintiff's attorney.

In the King's Bench,
(or Common Pleas).

A. B. plaintiff, (§ 38.)
and Affidavit of
C. D. defendant. service of no-
tice of render.

I. T. of — clerk to *L. M.* gentleman, attorney for the
defendant's bail in this cause, maketh oath and saith, that he
this deponent did, on the — day of — instant, personally
serve Mr. *I. K.* the plaintiff's attorney, with a true copy of
the notice hereunto annexed ; (and if the service was on his
clerk or servant, add, " by delivering the same to the clerk (or
servant) of the said Mr. *I. K.* at his house, or chambers, in
— in the county of —.")

I. T.

Sworn, (&c.)

CHAP. XII.

Of the PROCEEDINGS against SHERIFFS, &c. to compel them to RETURN WRITS, and BRING in the BODY; and of the ASSIGNMENT of the BAIL-BOND, &c.

(§ 1)
Rule to return writ, in K. B.

— on (or next after) — in the — year of king George the Third.

A. B. } It is ordered, that — and — sheriffs of *London*,
v. } shall within *four* days next after notice of this rule,
C. D. } to be given to their secondaries, (or, that — sheriff of the county of — shall within — days next after notice of this rule, to be given to his under-sheriff,) peremptorily return the writ of — issued between the parties.

By the Court

(§ 2)
The like in the Exchequer.

— term, in the — year of the reign of king George the Third.

A. B. against *C. D.*

— the — day of —

Side-Bar. It is ordered, that the sheriff of the county of — do peremptorily return here into court, his majesty's writ of *quo minus*, to him directed and delivered, between the said parties, and returnable at a day now past, within *six* days (or if in *London* or *Middlesex*, within *four* days,) after notice of this rule, to be given to him or his under-sheriff.

By the Court.

Rose.

(§ 3)
Affidavit of service of rule to return writ, &c. in K. B.

In the King's Bench.

A. B. plaintiff,
and
C. D. defendant.

I. K. of — clerk to *E. F.* —, attorney for the above-named plaintiff, maketh oath and saith, that he did, on the

the — day of — instant, personally serve Mr. — who is or acts as deputy to the secondaries of the city of London, at their office, No. 57, Coleman-street, (if in London; or if in Middlesex, "Mr. — who is or acts as deputy sheriff of the county of Middlesex;" or if in any other county, "Mr. — who is the under-sheriff of the county of —,") with a true copy of the rule hereunto annexed, and at the same time shewed him the said original rule. And this deponent further saith, that he did this morning search with the *custos breviarum* of this honourable court, for the return of the writ of — issued in this cause, but that the same was not filed with him.

I. K.

Sworn, (&c.)

In the Common Pleas.

A. B. plaintiff,

and

C. D. defendant.

(§ 4.)
The like, in
C. P.

I. K. of — clerk to E. F. gentleman, attorney for the above-named plaintiff, maketh oath and saith, that a writ of *capias ad respondendum* was regularly issued out of, and under the seal of this honourable court, directed to the present sheriff (or sheriff) of —, and returnable on — last past; and that he this deponent did, on the — day of — instant, personally serve, &c. (as above :) And this deponent further saith, that he did this morning search with the *custos breviarum* of this honourable court, amongst the file of writs as of this term, for the return of the said writ of *capias ad respondendum*, but that the same was not filed with the said *custos breviarum*.

I. K.

Sworn, (&c.)

The within-named C. D. is not found in my bailiwick.

(§ 5.)
Return of non
est inventus.

The answer of — sheriff.

I have taken the within-named C. D. whose body I have ready, as within I am commanded.

(§ 6.)
Cepi corpus, et
paratum habeo.

The answer, (&c.)

By

CAP. XII.

(§ 7.)
The writ, and
that the defend-
ant remains
in custody.

By virtue of this writ to me directed, I have taken the within-named *C. D.* whose body remains in the prison of the lord the king, under my custody.

The answer, (&c.)

(§ 8)
Cepi corpus as
to one defend-
ant, and *non est*
inveritas as to
another.

I have taken the within-named *C. D.* whose body I have ready, as within I am commanded; but the within-named *E. F.* is not found in my bailiwick.

The answer, (&c.)

(§ 9.)
Rescue.

By virtue of this writ to me directed, I made my certain warrant in writing, under my seal of office, to *E. F.* and *G. H.* my bailiffs, jointly and severally, to take and arrest the within-named *C. D.* by virtue of which warrant the said *E. F.* and *G. H.* afterwards and before the return of the said writ, to wit, on the — day of — last, at — in my county, and within my bailiwick, took and arrested the within-named *C. D.* according to the exigency of the said writ, and safely kept him in their custody, until *G. H.* of — and divers other persons to my said bailiffs unknown, on — at — aforesaid, with force and arms, assaulted and ill-treated my said bailiffs, and the said *C. D.* out of the custody of my said bailiffs then there rescued, and the said *C. D.* then and there with force and arms rescued himself, and escaped out of the custody of my said bailiffs, against the peace of our lord the now king; and afterwards, the said *C. D.* is not found in my bailiwick.

The answer, (&c.)

(§ 10.)
Discharge on
supersedeas.

By virtue, (&c.) I took the within-named *C. D.* and safely kept him in his majesty's prison in and for the said county, until afterwards, to wit, on — by virtue of a certain other writ of our said lord the now king to me directed, and to this writ annexed, I caused the said *C. D.* to be delivered out of the said prison; wherefore I cannot have the body of the said *C. D.* before our said lord the king, (or in *C. P.* before the justices of our said lord the king,) at the day and place within contained, as within I am commanded.

The answer, (&c.)

By

By virtue, (&c.), I took the within-named *C. D.* and safely kept him, (&c.) until afterwards, to wit, on — I received his said majesty's writ of *habeas corpus cum causâ*, commanding me to have the body of the said *C. D.* before the right honourable *Edward Lord Ellenborough*, his said majesty's chief justice, assigned to hold pleas in the court of our lord the now king, before the king himself, at his chambers situate in *Serjeant's-Inn, Chancery-lane, London*, immediately after the receipt of that writ: by virtue of which said writ, and in obedience thereto, I had the body of the said *C. D.* with the said last-mentioned writ, and the return of the within cause, mentioned in a certain schedule thereunto annexed, before his said majesty's chief-justice, at his chambers aforesaid, on the — day of — last, who then received of me the body of the said *C. D.* and committed him to the prison of the marshal of the marshalsea of our said lord the king, before the king himself, and altogether discharged and exonerated me from further keeping the said *C. D.*; wherefore I cannot have the body of the said *C. D.* before our said lord the king, at the day and place within-contained, as within I am commanded.

CHAP. XII.
(§ 11.)
Delivery over
on *habeas corpus*
to the marshal.

The answer, (&c.)

By virtue, (&c.) I have taken the within named *C. D.* who remains in his majesty's prison of — under my custody, so weak and infirm, that without great peril and danger of his life, I cannot have his body before the lord the king, (or in *C. P.* before the justice of the lord the king,) at the day and place within contained, as within I am commanded.

(§ 12.)
Angustus in
prisoni.

The answer, (&c.)

By virtue, (&c.) I have made my mandate to the bailiff of the city of — to take and arrest the within-named *C. D.* which said bailiff hath the full return of all writs and process, and the execution of the same, within the liberty aforesaid, so that no execution of this writ can be made by me within the said liberty; which said bailiff hath not as yet given me any answer thereto. (Or hath answered, "that the within-named *C. D.* is not found in his bailiwick;" or, "that he hath taken the within-named *C. D.* whose body he hath ready.")

(§ 13.)
Mandatus in
&c.

The answer, (&c.)

CHAP. XII. *George* the third, (&c.) To the sheriff, of — greeting:

(§ 14.) We command you, that you distrain *G. II.* bailiff of our li-
Distringas balli-
rum, in K. B. (a) berty of — in your county, by all his lands and chattels in
your bailiwick, so that neither he, nor any one for him, do lay
hands on the same, until you receive another command from
us in that behalf; and that you, answer to us for the issues
thereof, so that you have before us at *Westminster*, on —
— next after — (or, by *original*, on — wheresoever we
shall then be in *England*,) the body of *E. F.* by him taken,
and in our prison under his custody detained, as by your re-
turn, heretofore by you sent into our court before us, you
have charged the said bailiff, to answer to *A. B.* of a plea of
trespass, and also to a bill, &c. (or, by *original*, the body of *E. F.*
late of —, whom by our command the said *G. II.* lately
took, as you returned to us at *Westminster*, on — last past,
to answer to *A. B.* of a plea of, (&c.) and for the said *G. II.*
to hear his judgment thereupon of many defaults; and have
there then (or, by *original*, “have there”) this writ. Wit-
ness, (&c.)

(§ 15.)
Entry thereof
by original, in
K. B.

The sheriff was commanded, that he should take *C. D.* late
of — if, &c. and him safely keep, so that he might have
his body before the lord the king on — last past, whereso-
ever, &c. to answer to *A. B.* of a plea, (&c.) And now here at
this day, comes the said *A. B.* by *E. F.* his attorney, and
offers himself on the fourth day against the said *C. D.* of the
plea aforesaid; and the said *C. D.* does not come: And the
sheriff returns, that he hath made his mandate to *G. II.* bai-
liff of the liberty of — in the county aforesaid, who has the
return of all writs and process, and the execution of the same,
within the liberty aforesaid, and within which the execution
of that writ by him the said sheriff could not be made; which
said bailiff gave this answer to the said sheriff, that he had
taken the body of the said *C. D.* whose body he would have
here at this day. And because the said bailiff hath not the
body of the said *C. D.* here at this day, therefore the said
bailiff is in mercy, and amerced by the court of our lord the
king here to —/l. and it is commanded to the sheriff, that

(a) This writ is now disused; as an attachment lies against the bailiff, for not
returning the writ, in K. B.*

he distrain the aforesaid bailiff by all his lands, &c. and that he answer, &c. so that he have before the lord the king, on — wheresoever, &c. the body of the said *C. D.* whom, &c. to answer to the said *A. B.* of the plea aforesaid, &c.

— on (or next after) — in the — year of king *George the Third.* (§ 16)
Rule to bring in the body, in K. B.

A. B. } It is ordered, that — and — sheriffs of *London*,
C. D. } shall within *four* days next after notice of this rule, to be given to their secondaries, (or, that — sheriff of the county of — shall within — days next after notice of this rule, to be given to his under-sheriff) peremptorily bring into court the body of the defendant.

— term, in the — year of the reign of king *George the Third.* (§ 17)
The like, in the Exchequer.

A. B. against *C. D.*

— the — day of —

Side Bar. It is ordered, that the sheriff of the county of — do peremptorily bring here into court, the body of the said defendant, whom he has taken and detained in his custody, by virtue of his majesty's writ of *quo minus* issued between the said parties, as the said sheriff has charged himself by his return made on the said writ, within *six* days (or, if in *London* or *Middlesex*, within *four* days) next after notice of this rule, to be given him or his under-sheriff.

By the Court.

Rose.

In the King's Bench,
 (or Common Pleas).

A. B. plaintiff,
 and
C. D. defendant. (§ 18)
Affidavit of service of rule to bring in the body, &c. in K. B. or C. P.

I. K. of — clerk to *E. F.* gentleman, attorney for the plaintiff in this cause, maketh oath and saith, that he this deponent did, on the — day of — instant, personally serve Mr. — who is or acts as deputy to the secondaries of the city of *London*, at their office, No. 57, *Coleman-street*. (if in *London*; or if in *Middlesex*, Mr. — who is or acts as deputy sheriff of the county of *Middlesex*;" or if in any other county,

CHAP. XII. "Mr. — who is the under-sheriff of the county of —") with a true copy of the rule hereunto annexed, and at the same time shewed him the said original rule. And this deponent further saith, that no bail above has been put in for the defendant in this cause, for "that bail above has been put in, (&c.) but that the same is not perfected;" adding in C. P. "he this deponent having this morning searched with the proper filacer for that purpose."

I. K.

(§ 19) In the Exchequer of Pleas.
The like, in the
Exchequer.

* A. B. plaintiff,
and
C. D. defendant.

E. F. of — gentleman, maketh oath and saith, that he did, on the — day of — instant, (or last,) serve J. K. under-sheriff of the county of —, "with a true copy of the rule hereunto annexed, by delivering such copy to L. M. the clerk of the said J. K. at his office in — aforesaid (a); and at the same time shewed him the said original rule.

E. F.

Sworn, (&c.)

(§ 20)
Distringas against the constable of Dover Castle, to compel him to bring in the body

George the Third, (&c.) To — and — by the court here, elected and chosen for that purpose, greeting: We command you, that you distrain the Right Honourable — Lord — our constable of *Dover Castle*, by all his lands and chatels in the bailiwick of the said constable, so that neither he nor any one for him do lay hands on the same, until you receive another command from us in that behalf, and that you answer to us for the issues thereof, so that the said constable have before us (or in C. P. before our justices) at *Westminster*, on — next after —, the body of C. D. by him taken, and in our prison under his custody detained, as appears by the said constable's return, heretofore by him sent into our court before us (or in C. P. before our said justices) at *Westminster* aforesaid, to answer to A. B. of a plea of trespass, and also to

(a) *Quere*, Whether the affidavit tempt, and the rule requires notice to be should not state that the rule was personally given to him or his under-sheriff. See *ally served on the under-sheriff?* as the § T. R. 331.
effect of it is to bring the sheriff into con-

a bill

a bill of the said *A. B.* against the said *C. D.* for — *l.* upon **CHAP. XII.**
promises, (or as the plea is,) according to the custom of our
court before us to be exhibited, (or in C. P. to answer to *A. B.*
of a plea of trespass, and also of a plea of trespass on the case
upon promises, to the damage of the said *A. B.* of — *l.* (or
as the plea is), and for the said constable to hear his judgment
thereupon of many defaults; and have there then this writ.
Witness, (&c.)

— on (or next after) — in the — year of king (§ 21.)
George the Third. Rule for at-
tachment, in
K. B.

B. } Upon reading the rule made in this cause, on — next-
v. } after — in — term last, and the affidavit of *E. F.*
D. } it is ordered, that a writ of attachment issue against the
sheriff of the county of —, for his contempt in not bring-
ing into court the body of the defendant, pursuant to the
said rule. Upon the motion of Mr. —.

By the Court.

George the Third, (&c.) To the coroner of the county of (§ 22)
— greeting: We command you, that you attach *C. D.* Es- Attachment
against the
sheriff, for not
bringing in the
body, in K. B.
quire, sheriff of our said county, so that you may have him
before us, on — to answer to us, for certain trespasses and
contempts, by him lately done and committed in our court
before us; and have there then this writ. Witness, (&c.)

By the Court. -

Lushington.

By rule of court. *E. F.* clerk in court.

Indorsement.

George the Third, (&c.) To the coroner of — greeting: (§ 23.)
We command you, that you attach — Esquire, sheriff of The like at-
tachment, in
C. P.
our said county, so that you may have him before our jus-
tices at *Westminster*, on — next after —, to answer to us,
of and concerning those things which on our behalf shall then
and there be objected against him; and have there then this
writ. Witness, (&c.)

George the Third, (&c.) To the coroner of — greeting: (§ 24.)
We command you, that you omit not by reason of any liberty The like, in the
Exchequer.
in

CHAP. XII. in your bailiwick, but that you enter the same, and attach
 — Esquire, sheriff of our said county, by his body, where-
 soever you shall find him in your bailiwick, and him safely
 keep, so that you may have him before the barons of our Ex-
 chequer at *Westminster*, on (&c.) to answer to us, concern-
 ing divers trespasses, contempts and offences, by him lately
 done and committed, and have there then this writ. Witness
 Sir *Alexander Thomson* knight, at *Westminster*, the — day
 of — in the — year of our reign.

By the Barons.

A. B against *C. D.*

Indorsement. By rule of court, made the — day of — 16— (the day
 of — in the — for attachment,) for bringing in the body
 of the defendant, pursuant to a rule of court, made in the
 said cause for that purpose.

(§ 25.)
 Assignment of
 bail-bond

I the within named sheriff of — have, at the request of
A. B. the plaintiff also within named, assigned to him the said
A. B. the within-written bail-bond, and all benefit and ad-
 vantage arising therefrom, pursuant to the statute in that case
 made and provided. In witness whereof, I have hereunto set
 my hand and seal of office, this — day of — 16—.

— Sheriff.

Signed, sealed and delivered, by the
 within named sheriff, in the presence of

J. K.
L. M.

(§ 26.)
 Indemnity to
 the sheriff, on
 delivery of
 bail-bond, on
 attachment
 for contempt.

I do hereby acknowledge to have received from — Es-
 quire, sheriff of the county of —, a bail-bond for the ap-
 pearance of *C. D.* in his majesty's court of Exchequer at
Westminster, on — last past, at the suit of *A. B.* to answer
 the lord the king, concerning divers trespasses, contempts
 and offences, by him lately done and committed; with licence
 to use the name of him the said — Esquire, to whom it is
 become

become forfeited : In consideration whereof, I do hereby pro- CHAP. XII.
mise and undertake, to save harmless and keep indemnified
the said sheriff, of from and against all costs, charges, amer-
ciaments, damages and expences whatsoever, relating thereto.
As witness my hand, this — day of, — 18—.

E. F. plaintiff's solicitor.

Witness, *G. H.*

CHAP. XIII.

Of the DECLARATION, and NOTICE thereof; and JUDGMENT of NON PROS, for not DECLARING, &c.

(§ 1) *Rule for time, or further time, to declare, in K. B.* *B.* IT is ordered, that the plaintiff have time (or further time) to declare, until the first day inclusive of the next term, (or last day inclusive of the present term,) if the defendant be not in custody.

(§ 2) *Rule to declare, in C. P.* In the Common Pleas. *B. against D.*
Rule to declare

(§ 3) *Demand of declaration, in C. P.* In the Common Pleas. *B. against D.*
The defendant demands a declaration in this cause, by
You'r, &c.
G. H. defendant's attorney,
To Mr. *E. F.* plaintiff's attorney. (or agent.)

(§ 4.) *Beginning of declaration by original in case, in K. B. or C. P.* In the King's Bench,
(or Common Pleas).
— term, in the — year of the reign of king
Geo the Third.

— (to wit.) *C. D.* was attached to answer *A. B.* of a plea of trespass on the case, &c. and thereupon the said *A. B.* by *E. F.* his attorney complains; that whereas, (&c.)

(§ 5) *The like, by an infant.* — (to wit.) *C. D.* was attached to answer *A. B.* of a plea of trespass on the case, &c. and thereupon the said *A. B.* by *E. F.* who is admitted by the court of our lord the king before the king himself here, to prosecute for the said

said *A. B.* who is an infant within the age of twenty-one years, as the next friend of the said *A. B.* complains; that whereas, (&c.)

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea that he render to him the said *A. B.* a reasonable account, for the time he was bailiff to the said *A. B.* in — in the county of —, (or “receiver of the monies of the said *A. B.*”) &c. And thereupon the said *A. B.* by *E. F.* his attorney complains; that whereas, (&c.)

(§ 6.)
The like, in account.

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea that he render to him the said *A. B.* the sum of —*l.* of lawful money of *Great Britain*, which is in arrear to the said *A. B.* of a certain annuity, or yearly rent of —*l.* and which the said *C. D.* owes to the said *A. B.* &c. And thereupon the said *A. B.* by *E. F.* his attorney complains; that whereas, (&c.)

(§ 7.)
The like, in annuity.

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea that he keep with him the covenant made by the said *C. D.* with the said *A. B.* according to the force, form and effect of a certain indenture (or “of a certain deed poll, or articles of agreement”) in that behalf made between them, &c. And thereupon the said *A. B.* by *E. F.* his attorney complains; that whereas, (&c.)

(§ 8.)
The like, in covenant.

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea that he render to him the said *A. B.* the sum of —*l.* of lawful money of *Great Britain*, which he owes to and unjustly detain from him, &c. And thereupon the said *A. B.* by *E. F.* his attorney complains; that whereas, (&c.)

(§ 9.)
The like, in debt.

— (to wit.) *C. D.* was summoned to answer *A. B.* who sues as well for our sovereign lord the king (or for the poor of the parish of —, in the county of —) as for himself in this behalf, of a plea that he render to our said lord the king (or to the poor of the said parish), and to the said *A. B.* who sues as aforesaid, the sum of —*l.* of lawful money of *Great Britain*, which he owes to and unjustly detains from them,

(§ 10.)
The like, in debt *our sum.*

CHAP. XIII. them, &c. And thereupon the said *A. B.*, who sues as aforesaid, by *E. F.* his attorney complains; that whereas, (&c.)

(§ 11.)
The like, in detinue.

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea that he render to him the said *A. B.* certain goods and chattels, (or deeds and writings,) to the value of —*l.* of lawful money of *Great Britain*, which he unjustly detains from him, &c. And thereupon the said *A. B.* by *E. F.* his attorney complains; that whereas, (&c.)

(§ 12.)
The like, in trespass.

— (to wit.) *C. D.* was attached to answer *A. B.* of a plea wherefore the said *C. D.* with force and arms, &c. broke and entered, (or made an assault) &c. (stating the trespasses at length, but without particularizing the time, number, quality, or value, &c.) and other wrongs to the said *A. B.* there did, to the great damage of the said *A. B.* and against the peace of our lord the now king, &c. And thereupon the said *A. B.* by *E. F.* his attorney complains; that the said *C. D.* on — at — (repeating the trespasses, with the circumstances of time, number, quality, and value, &c.) and other wrongs to the said *A. B.* then and there did, to the great damage of the said *A. B.* and against the peace of our said lord the now king; wherefore the said *A. B.* saith that he is injured, and hath sustained damage to the value of —*l.* and therefore he brings his suit, &c.

(§ 13.)
The like, by bill, in case or trespass, in K. B.

Law & Markham.

— term, (&c.)

— (to wit.) *A. B.* complains of *C. D.* being in the custody of the marshal of the marshalsea of our lord the now king, before the king himself; for that whereas, (or in trespass, “for that,”) &c.

(§ 14.)
The like, by an infant.

— (to wit.) *A. B.* by *E. F.* who is admitted by the court of our lord the king before the king himself here, to prosecute for the said *A. B.* who is an infant within the age of twenty-one years, as the next friend of the said *A. B.* complains of *C. D.* being, (&c.)

(§ 15.)
In covenant.

Of a plea of breach of covenant.

In

In *account, annuity, debt, and detinue*, the plea, in declarations by *bill* in K. B. is described in the same manner as in declarations by *original* in K. B. or C. P. for which *vide ante*, p. 187, 8. : And if the plaintiff's are *assignees* of a bankrupt or insolvent debtor, or the action be brought by or against *executors* or *administrators*, they should be described accordingly.

In the Exchequer of Pleas.

(§ 16.)
The plea, in the
Exchequer, by
quo minus.
— term, (&c.)

— (to wit.) *A. B.* a debtor to our sovereign lord the now king, cometh before the barons of his majesty's Exchequer, on the — day of — in this same term, by *E. F.* his attorney; and complains by bill against *C. D.* present here in court the same day, of a plea of trespass on the case, &c. (or as the plea is, describing it as in declarations by *bill* in K. B.) For that whereas, (&c.)

— (to wit) *A. B.* executor of the last will and testament of *E. F.* deceased, (or administrator of all and singular the goods, chattels and credits, which were of *E. F.* deceased, at the time of his death, who died intestate,) and a debtor to our sovereign lord the now king, for the debt of the said *E. F.* cometh before the barons, &c. (as above.)

To the damage of the said *A. B.* of — whereby he is the less able to satisfy our said lord the king, the debts (or if at the suit of an executor or administrator, "the debts of the said *E. F.*") which he owes to his majesty, at his said Exchequer, and therefore he brings his suit, &c.

Pledges, (&c.)

In the King's Bench,
(or Common Pleas.)

A. B. plaintiff,
and
C. D. defendant.

Take notice, that a declaration was this day filed with the clerk of the declarations in the King's Bench office, (or in C. P. "with the prothonotaries, at their office in *Tanfield-court*," in the *Inner Temple, London*, as of this present — term, against you, at the suit of the above-named plaintiff, in an action of trespass

(§ 19.)
Notice of declaration, &c. on common process, in K. B. or C. P. where bail is filed, or an appearance entered, according to the statute 5 Geo. II. c. 27. § 1.

CHAP. XIII. trespass on the case upon promises, to the plaintiff's damage of —*l.* (or in an action of debt for —*l.* or as the action is,) and unless you plead thereto in *four* (or *eight*) days from the date hereof, (or within the first *four* days of next — term,) judgment will be signed against you by default. Dated this — day of — 18—.

Your's, &c.

E. F. plaintiff's attorney,
(or agent).

To Mr. *C. D.* the above defendant.

(§ 20.)

The like *de bene esse*, on common or bailable process, in K. B. or C. P.

In the King's Bench,
(or Common Pleas.)

A. B. plaintiff,

and

C. D. defendant.

Take notice, that a declaration was this day filed with the clerk of the declarations in the King's Bench office, (or in C. P. with the prothonotaries, at their office in *Tanfield-court*;) in the *Inner Temple*, London, conditionally, until common bail be filed, (or by *original* in K. B. or C. P. "until a common appearance be entered," or in a *bailable* action, "until special bail be put in and perfected,") as of this present — term, against you, at the suit of the above-named plaintiff, in an action of trespass on the case upon promises, to the plaintiff's damage of —*l.* (or in an action of debt for —*l.* or as the action is); and unless you appear and plead thereto in *eight* days from the date hereof, (or on bailable process, in *four* or *eight* days, as the case may require,) judgment will be signed against you by default. Dated this — day of — 18—.

Your's, &c.

E. F. plaintiff's attorney, (&c.)

To Mr. *C. D.* the above defendant.

(§ 21.)

The like, on common process, in the Exchequer.

In the Exchequer of Pleas.

A. B. plaintiff,

and

C. D. defendant.

Take notice, that a declaration is filed against you, as of this present — term, (or, on an imparlance, as of last — term,) in the office of pleas of this honourable court, situate in *Lincoln's Inn*, in the county of *Middlesex*, at the suit of the above-named plaintiff, in an action of trespass on the case,

case, (or *debt*, &c. according to the nature of the action,) to the plaintiff's damage of —*l.*; and unless you plead there-
to, within *eight* days after service hereof, (or, on an impar-
lance, within the first *four* days of next — term,) judg-
ment will be entered against you by default. Dated this
— day of — 18—.

Your's, &c.

E. F. plaintiff's clerk in court.

To Mr. *C. D.* the above defendant.

As yet of — term, in the — year of the reign of king
George the Third. Witness *Edward Lord Ellenbo-*
rough.

(§ 22.)
Judgment of
non pros, for
want of a de-
claration, on
common pro-
cess by bill, in
K. B.

Law & Markham.

— to wit. *C. D.* puts in his place *G. H.* his attorney,
at the suit of *A. B.* in a plea of trespass.

— to wit. *C. D.* according to the form of the statute in
such case made and provided, was served with a copy of a
certain precept called a bill of *Middlesex*, (or, of a certain
writ of our lord the king called a *latitat*, or *alias capias*, &c.)
issuing out of the court of our said lord the king before the
king himself, directed to the sheriff of —, (if a *latitat*, or
alias capias, &c.) and returnable before our said lord the king
at *Westminster*, on — next after — in — term now last
past, to answer *A. B.* in a plea of trespass; and the said *C. D.*
at the same day appeared by *G. H.* his attorney, according to
the form of the statute in such case made and provided:
And the said *A. B.* hath not declared in the said court of our
said lord the king before the king himself at *Westminster*
aforesaid, by his bill or declaration in any personal action or
ejectment against the said *C. D.* before the end of this pre-
sent — term, (or of — term then next ensuing,) being
the next term after the appearance of him the said *C. D.* at
the suit of the said *A. B.* Therefore it is considered, that the
said *A. B.* take nothing by his said precept (or writ), but
that he be in mercy, &c. And it is further considered by his
majesty's court here; that the said *C. D.* do recover against
the said *A. B.* —*l.* for his costs and charges by him laid

Judgment
signed the —
day of — 18—.

CHAP. XIII. out about his defence in this behalf, by the court of our said lord the king now here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

(§ 23.)
The like by
original, in
K. B.

— to wit. *C. D.* puts in his place *G. H.* his attorney, at the suit of *A. B.* in a plea of trespass on the case upon promises (or as the plea is).

— to wit. *C. D.* late of — according to the form of the statute in such case made and provided, was served with a copy of a certain writ of our lord the king called a special *capias ad respondendum*, issuing out of the court of our said lord the king before the king himself, directed to the sheriff of —, and returnable before our said lord the king, on — wheresoever our said lord the king should then be in *England*, to answer *A. B.* in a plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.* (or as the plea is); and the said *C. D.* at the same day appeared, &c. (as in the last.)

(§ 24.)
The like, on
bailable pro-
cess by bill, in
K. B.

(Entry of warrant of attorney for defendant, as above)

— to wit. *C. D.* was arrested by virtue of a precept called a bill of *Middlesex*, (or of a certain writ of our lord the king called a *latitat*, or *alias capias*, &c.) issuing out of the court of our said lord the king before the king himself, directed to the sheriff of —, (if a *latitat*, or *alias capias*, &c.) and returnable before our said lord the king at *Westminster*, on — next after — in — term now last past, to answer *A. B.* in a plea of trespass, and also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for — *l.* on promises, (or as the *ac-etiam* is,) according to the custom of the court of our said lord the king before the king himself; and the said *C. D.* at the same day appeared, and put in special bail by *G. H.* his attorney, at the suit of the said *A. B.* And the said *A. B.* hath not declared, &c. (as before, p. 141.)

(Entry of writ of attorney for defendant, as in the last page.)

— to wit. *C D* was arrested, by the name of, (&c.) by virtue of a certain precept, &c. (as in the last, to the end of the recital of the precept or writ, and then as follows). And the said *C. D.* afterwards, to wit, on the — day of — in that same — term, was discharged out of the custody of the sheriff of — by virtue of a rule or order of the same court, upon filing common bail by the said *G. H.* his said attorney, at the suit of the said *A. B.* And the said *A. B.* hath not declared, &c. (as before, p. 141, 2)

(§ 25)
The like, where defendant had been discharged out of custody, on filing common bail, in K. B.

— to wit. *C. D.* was arrested by virtue of a certain writ or mandate, directed to the sheriff of the county-palatine of *Lancaster*, and grounded upon a certain writ of our said lord the king called a *latitat*, (or *alias capias*, &c.) issuing out of the court of our said lord the king before the king himself, directed to the chancellor of the said county-palatine, and returnable, &c. (as in the last but one)

(§ 26)
The like, in a county-palatine, in K. B.

— to wit. *A. B.* who brought a writ of *exigi facias* of our lord the king before the king himself, against *C D.* late of — of a plea, &c. did not prosecute his writ aforesaid. Therefore he and his pledges to prosecute are thereupon in mercy, &c. and let the names of the pledges be inquired, &c. and the said *C D* go thereof without day. &c. It is also considered, &c. (as before, p. 141, 2)

(§ 27)
The like after the defendant's appearance on an *exigi facias*, in K. B.

— to wit. *C D.* puts in his place *G. H.* his attorney, at the suit of *A. B.* who as well, &c. in a plea of debt on statute.

(§ 28)
The like, in debt on statute, in K. B.

— to wit. *A. B.* who brought a writ of our lord the king, as well for our said lord the king as for himself, against *C. D.* of a plea of debt on statute, hath not prosecuted his writ aforesaid: Therefore it is considered, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c. . And it is further considered, &c. (as before, p. 141, 2.)

Judgment
given, (&c.)

CHAP. XIII.

The entry (or further entry) of *G. H.* gentleman, one, &c.

(\$ 29.)

Docket-paper,
in *K. B.*of the term of — 54 *Geo. III.* 18—.

Middlesex. *Non-pros* for not declaring,
between *A. B.* plaintiff and *C. D.* de-
fendant, for — costs.

Roll
—

(\$ 30.)

Judgment of
non-pros for not
declaring on a
bailable *capias*,
in *C. P.*

— term, in the — year of the reign of king
George the Third.

— to wit. *A. B.* who sued out the writ of our lord the king
against *C. D.* late of — in a plea of trespass, and also in a
plea of trespass on the case upon promises, to the damage of
the said *A. B.* of — l. doth not further prosecute his said
writ: Therefore it is considered by the justices here, that
the said *A. B.* and his pledges to prosecute be in mercy, &c.
and that the said *C. D.* do go thereof without day, &c. It is
also considered, that the said *C. D.* do recover against the
said *A. B.* — for his costs and charges by him laid out
about his defence in this behalf, by the discretion of the jus-
tices here adjudged to the said *C. D.* and with his assent, ac-
cording to the form of the statute in such case made and pro-
vided, &c.

Judgment
signed, (&c)

(\$ 31.)

The like, on a
bailable *quo mi-*
nus, in the Ex-
chequer.

Pleas, &c. (as before, p. 83.)

— to wit. *C. D.* was arrested, by virtue of a certain writ
of our lord the king, called a *quo minus*, issuing out of the
court of our said lord the king, before the barons of his
Exchequer at *Westminster*, directed to the sheriff of —,
and returnable in the same court, on — in — term now
last past, to answer *A. B.* his majesty's debtor, of a plea of
trespass, whereby he was the less able, (&c.): And the said
C. D. at the same day put in his place *G. H.* his attorney,
and found good and sufficient bail to answer the said *A. B.* in
the plea aforesaid: And the said *A. B.* hath not declared, &c.
(as before, p. 141.)

CHAP. XIV.

Of the Notice and Rule to PLEAD; and DEMAND of PLEA, &c.

THE defendant is to plead hereto in *four* (or *eight*) days, (or within the first *four* days of next — term,) otherwise judgment. (§ 1.)
Notice to plead, indorse on declaration delivered absolutely.

This declaration is filed (or delivered) conditionally, until special bail be put in and perfected, (or perfected, if already put in,) and the defendant is to plead hereto in *four* (or *eight*) days, otherwise judgment. (§ 2.)
The like, when filed or delivered *de bene esse*.

This declaration is filed (or delivered) conditionally, until an appearance be entered; and the defendant is to plead hereto in *four* (or *eight*) days, otherwise judgment. (§ 3.)
The common process, in C. P.

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

B. against D. (§ 4.)
Term's notice of rule to plead.

Take notice, that the plaintiff intends to proceed, after the end of the ensuing term, by giving a rule to plead in this cause. Dated, (&c.)

Your's, &c.

E. F. plaintiff's attorney,
(agent, or clerk in court.)

To Mr. *G. H.* defendant's
attorney, (&c.).

In the King's Bench, (&c.)
Rule to plead.

B. against D. (§ 5.)
Rule to plead.

E. F. attorney, (&c.)

— 18 —

CHAP. XIV. In the King's Bench, (&c.)

P. against D.

(§ 6.)
Demand of
plea.

The plaintiff demands a plea in this cause, by

Your's, &c.

E. F. plaintiff's attorney, (&c.)

— 18 —

To Mr. G. H. defendant's
attorney, (&c.)

(§ 7.)
Summons for
time, or further
time, to plead.

B. } Let the plaintiff's attorney or agent attend me at my
v. } chambers, in *Serjeant's Inn*, to-morrow, at *eleven* of the
D. } clock in the forenoon, (or at *six* of the clock in the
evening,) to shew cause, why the defendant should not have a
month's time (or further time) to plead.

— (judge's name.)

(§ 8.)
Order for fur-
ther time to
plead.

B. } Upon hearing the attornies or agents on both sides, I
v. } order, that the defendant have further time to plead,
D. } pleading *is* fully, rejoining *gratis*, and taking short no-
tice of trial for the sittings after this term, if necessary.
Dated, (&c.) — (judge's name.)

(§ 9.)
Affidavit of
service and at-
tendance on
summons, in
K. B. or C. P.

In the King's Bench,
(or Common Pleas).

A. B. plaintiff,
and

C. D. defendant.

I. K. of — clerk to Mr. H. attorney for the defendant
in this cause, maketh oath and saith, that he this deponent
did, on the — day of — instant, (or last,) personally serve
Mr. E. F. who acts as attorney (or agent) for the plaintiff in
this cause, with a true copy of the summons hereunto annex-
ed; (or, if served on a clerk or servant, did on, (&c.) serve a
true copy of the summons hereunto annexed, on Mr. E. F.
who acts as attorney (or agent) for the plaintiff in this cause,
by leaving the same at the house of the said E. F. in — with
his clerk, or servant, there;) and at the same time shewed
him the said original summons. And this deponent further
saith, that he hath this day duly attended (or, that he did, on
the — day of — instant, duly attend) the said summons,
at the chambers of the Chief-Justice, (or, of the honourable
Mr. Justice —) in *Serjeant's Inn, Chancery-lane, London*;
but that the plaintiff's attorney or agent did not, nor did any
other

other person on his behalf, attend the said summons, to the knowledge or belief of this deponent. CHAP. XIV.

Sworn, (&c.)

I. K.

I. K. of — clerk to Mr. *G. H.* attorney for the defendant in this cause, maketh oath and saith, that he this deponent did, on the — day of — instant, (or last,) personally serve Mr. *E. F.* who acts as attorney, (&c.) with a true copy of the first summons, &c. (as in the last). And this deponent further saith, that he did on the — day of — instant, (or last,) personally serve the said Mr. *E. F.* with a true copy of the second summons, (&c.) And this deponent further saith, that he did, on the — day of — instant, (or last,) personally serve the said Mr. *E. F.* with a true copy of the third summons, (&c.) And this deponent further saith, that he did duly attend the said several summonses, at the times therein respectively mentioned, at the chambers, (but that the plaintiff's attorney or agent did not, nor any other person on his behalf, attend the said summonses, or any or either of them, at any or either of the times aforesaid, to the knowledge or belief of this deponent. (§ 10.)
The like, on
three sum-
monses.

Sworn, (&c.)

I. K.

CHAP. XV.

Of the PROCEEDINGS in ACTIONS by and against ATTORNIES, and OFFICERS of the COURTS of KING'S BENCH, COMMON PLEAS, and EXCHEQUER.

(§ 1.) *Præcipe for attachment of privilege, not bailable, in K. B.* —. Attachment of privilege for *A. B.* gentleman, one, &c. against *C. D.* returnable on — next after —.
A. B. in person.
— 18—.

(§ 2.) *Attachment of privilege not bailable, in K. B.* *George the Third, (&c.)* To the sheriff of — greeting : We command you, that you attach *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster*, on — next after —, to answer *A. B.* gentleman, one of the attornies of our court before us, according to the liberties and privileges of the said court, for such attornies and other officers of the court aforesaid, from time immemorial used and approved of in the same court, of a plea of trespass ; and have there then this writ. Witness *Edward I.* *Ellenborough*, at *Westminster*, the — day of — in the — year of our reign.
Law & Markham.

(§ 3.) *Præcipe for bailable attachment of privilege, in K. B.* —. Attachment of privilege for *A. B.* gentleman, one, &c. against *C. D.* Case, for —l. on promises, (or as the action is,) returnable on — next after —.
A. B. in person.
— 18—.

Oath for —l. by affidavit filed.

(§ 4.) *Attachment of privilege bailable, in K. B.* *George the Third, (&c.)* To the sheriff of — greeting : We command you, that you attach *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster*, on — next after —, to answer *A. B.* gentleman, one of the attornies of our court, &c. (as before,) of a plea of trespass, and also to a bill of the
the

the said *A. B.* be exhibited against the said *C. D.* for — *l.* upon promises, (or as the action is,) according to the custom of our court before us; and have there then this writ. Witness *Edward Lord Ellenborough*, at *Westminster*, the — day of — in the — year of our reign.

CHAP.
XV..

Law & Mar.

Bail by affidavit for — *l.*

A. B. in person.

— 18—.

(§ 5.)
Indorsement
thereon.

George the Third, (&c.) To — greeting: We command you, that by our writ under the seal of our said county-palatine to be duly made, and to be directed to the sheriff of the same county, you command the said sheriff, that he attach *C. D.* and *Richard Roe*, if they shall be found in his bailiwick, and them safely keep, so that you may have their bodies before us at *Westminster*, on — next after —, to answer *A. B.* gentleman, one of the attornies, &c. (as before.)

(§ 6.)
Attachment of
privilege, into a
county-pala-
tine, in K. B.

As yet of — term, in the — year of the reign of king *George the Third*. Witness *Edward Lord Ellenborough*.

(§ 7.) *
Entry of at-
tachment of
privilege on
the roll, to save
the statute, in
K. B.

England, (to wit.) Our lord the king sent to his sheriff of — his writ close in these words, to wit: *George the Third*, &c. (here copy the attachment of privilege, and then proceed as follows).

At which day, before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person, and offers himself against the said *C. D.* in the plea aforesaid; and the sheriff, to wit, — sheriff of the said county of — now here returns, that the said *C. D.* is not found in his bailiwick.

Law & Markham.

— term, in the — year of the reign of king *George the Third*.

(§ 8.)
Beginning of
declaration, at
suit of an
attorney, in
K. B.

— (to wit.) *A. B.* gentleman, one of the attornies of the court of our lord the now king before the king himself, being present here in court in his own person, according to the liberties and privileges of the said court, for such attornies and other officers of the court aforesaid from time immemorial

CHAP. XV. rial used and approved of in the same court, complains of *C. D.* being in the custody of the marshal of the marshalsea of our said lord the king before the king himself: For that whereas, (&c.)

(§ 9.) *Præcipe* for attachment of privilege, in C. P. ——. Attachment of privilege for *A. B.* gentleman, one, &c. against *C. D.* &c. (as before, p. 148.)

(§ 10.) Attachment of privilege, in C. P. *George* the Third, (&c.) To the sheriff of ——— greeting: Attach *C. D.* so that you may have him before our justices at *Westminster*, on ——— next after ———, to answer *A. B.* gentleman, one of the attornies of our court of the Bench, according to the liberties and privileges of the said court, for such attornies and other officers of the court aforesaid, from time immemorial used and approved of in the same court, of a plea of trespass on the case upon promises, to the damage of the said *A. B.* of ———*l.* (or as the plea is, there being no occasion for an *additum* in this writ); and have there this writ. Witness Sir *Vicary Gibbs* knight, at *Westminster*, the ——— day of ——— in the ——— year of our reign.

(§ 11.) Indorsement thereon. Bail by affidavit for ———*l.*
A. B. in person.
—— 18——.

(§ 12.) Special bail-piece, on an attachment of privilege, in C. P. In the Common Pleas.
—— term, in the ——— year of the reign of king *George* the Third.

——. Attachment of privilege for *A. B.* gentleman, one, &c. against *C. D.* in a plea of trespass on the case upon promises, to the damage of the said *A. B.* of ———*l.* (or as the plea is). Returnable on ———.

The bail are, *E. F.* of ———
and
G. H. of ———

Each of them in ———*l.*

L. M. attorney for defendant.

(§ 13.) Beginning of declaration, at suit of an attorney, in C. P. In the Common Pleas.
—— term, (&c.)
—— (to wit.) *C. D.* was attached by his majesty's writ of privilege, issuing out of his said majesty's court of the Bench here,

here, to answer *A. B.* gentleman, one of the attornies of his CHAP. XV.
 said majesty's court of the Bench aforesaid, according to the
 liberties and privileges of the said court, for such attornies
 and other officers of the court aforesaid, from time immemo-
 rial used and approved of in the same court, of a plea of
 trespass on the case, &c. (or as the plea is) : And thereupon
 the said *A. B.* in his proper person complains, that whereas,
 &c. (adding pledges).

George the Third, (&c.) To the sheriff of — greeting : (§ 14.)
 We command you, that you omit not by reason of any li- Copies of privi-
 berty of your county, but that you enter the same, and take lege, in the Ex-
C. D. and *John Doe*, wheresoever they shall be found in your chequer.
 bailiwick, and them safely keep, so that you may have their
 bodies before the barons of our Exchequer at *Westminster*, on
 — next coming, to answer *A. B.*, gentleman, one of the
 clerks of *E. F.* gentleman, one of the sworn attornies in the
 office of clerk of the pleas of our said Exchequer, of a
 plea of trespass on the case, &c. (or as the plea is) ; and have you
 there then this writ. Witness Sir *Alexander Thorason* knight,
 at *Westminster*, the — day of — in the — year of our
 reign.

In the Exchequer of Pleas.

— term, (&c.) (§ 15.)
 — (to wit.) *A. B.* gentleman, one of the sworn attornies Beginning of
 (or, one of the side-clerks of *E. F.* gentleman, one of the declaration, at
 sworn attornies) of the office of clerk of the pleas of his ma- suit of an
 jesty's court of Exchequer at *Westminster*, comes before the attorney or
 barons of this Exchequer, on the — day of — in this side-clerk, in
 same term, in his own proper person ; and complains by bill the Exchequer
 against *C. D.* present here in court the same day, of a plea of Pleas.
 of trespass on the case, &c. (or as the plea is) : For that where-
 as, (&c.)

Law & Markham.

— term, in the — year of the reign of king
George the Third.

— (to wit.) *A. B.* complains of *C. D.* gentleman, one of
 the attornies of the court of our lord the now king, before the
 king

(§ 16.)
 Beginning of
 bill against an
 attorney, in
 K. B.

CHAP. XV. king himself, being present here in court in his own person, of a plea of trespass on the case, &c. (or as the plea is): For that whereas, (&c.)

(§ 17.)
The like, by
one attorney
against another,
in K. B.

— (to wit.) *A. B.* gentleman, one of the attornies of the court of our lord the now king before the king himself, being present here in court in his own person, complains of *C. D.* gentleman, one other of the attornies of the said court of our said lord the king before the king himself, being also present here in court in his own person, of a plea of trespass on the case, &c. (or as the plea is:) For that whereas, (&c.)

(§ 18.)
The like, where
the cause of
action arises,
and the bill is
filed in vacation,
in K. B.

— (to wit). Be it remembered, that on the — day of — in the — year of the reign of our lord the now king, (a day after the cause of action accrued.) *A. B.* brought into the office of clerk of the declarations of the court of our said lord the king before the king himself, according to the course and practice of the same court, his certain bill against *C. D.* gentleman, one of the attornies, &c (as before), and filed the same bill as of — term, in the — year of the reign of our said lord the king; which said bill follows in these words, (that is to say): — (to wit). *A. B.* complains of *C. D.* gentleman, one of the attornies, (&c.)

(§ 19.)
The like,
against the
marshal.

— (to wit.) *A. B.* complains of *C. D.* Esquire, marshal of the marshalsea of our lord the now king, before the king himself, present here in court in his own person, of a plea that he render, &c. (or as the plea is:) For that whereas, (&c.)

(§ 20.)
Beginning of
bill against an
attorney, in
C. P.

In the Common Pleas.

— term, in the — year of the reign of king
George the Third.

To the justices of our lord the king of the Bench.

— (to wit.) *A. B.* by *E. F.* his attorney, complains of *C. D.* gentleman, one of the attornies of his majesty's court of the Bench here, being present here in court in his proper person, of a plea of trespass on the case, &c. (or as the plea is): For that whereas, &c. (as in other cases, concluding with a prayer of relief, and adding pledges.)

In

In the Common Pleas.

CHAP. XV.

— term, (&c.)

(§ 21.)
The like,
against the
warden of the
Fleet.

To the justices of our lord the King of the Bench.

— (to wit.) *A. B.* by *E. F.* his attorney, complains of
C. D. Esquire, warden of his majesty's prison of the *Fleet*,
being present here in court in his proper person, of a plea,
(&c.): For that whereas, (&c.)

Pledges, (&c.)

In the Common Pleas.

A. B. plaintiff,

and

C. D. gentleman, one, &c.
defendant.

(§ 22.)
Notice of bill
filed against an
attorney, in
C. P.

Take notice, that a bill was this day filed in the prothonotaries office, in *Tanfield court*, in the *Inner Temple, London*, against you, as of this present — term, at the suit of the above plaintiff *A. B.* in an action of trespass on the case upon promises, wherein the plaintiff lays his damage to — *l.* (or as the plea is); and unless you appear to the said bill, in — days from the date hereof, you will be forejudged the court. Dated the — day of — 18—.

Your's, &c.

E. F. attorney for plaintiff.

To Mr. *C. D.* the above defendant.

In the Common Pleas.

— term, (&c.)

(§ 23.)
Entry of fore-
judger, in C. P.

— (to wit.) Be it remembered, &c. (as in the next precedent, to the end of the bill, and then as follows :) Whereupon the said *C. D.* being solemnly called, came not; therefore he standeth forejudged, from exercising his office of attorney of this court, for his contumacy, &c.

In the Common Pleas.

— term, (&c.)

(§ 24.)
Beginning of
declaration
against an at-
torney, after
appearance by
bill, in C. P.

— (to wit.) Be it remembered, that on the — day of — in this same term, *A. B.* came into his majesty's court of the Bench here, by *E. F.* his attorney, and exhibited to the justices of the same court here, his certain bill against *C. D.* gentleman, one of the attornies of his said majesty's court of the Bench aforesaid, being present here in court in his proper person, of a plea

CHAP. XV. plea of trespass on the case, &c. (or as the plea is) ; and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard Roe* ; the tenor of which said bill follows in these words, that is to say : To the justices of our lord the king of the Bench. — (to wit.) *A. B.* by *E. F.* his attorney, complains of *C. D.* &c. (to the end of the bill, adding pledges).

(§ 25.)
Beginning of
declaration
against an at-
torney, or side
clerk, in the
Exchequer of
Pleas.

In the Exchequer of Pleas.

— term, (&c.)

— (to wit.) *A. B.* a debtor to our sovereign lord the now king, cometh before the barons of this Exchequer, on the — day of — in this same term, by *E. F.* his attorney ; and complains by bill against *C. D.* one of the sworn attornies (or one of the side-clerks of *G. H.* gentleman, one of the sworn attornies) of the office of clerk of the pleas of his majesty's court of Exchequer at *Westminster*, present here in court the same day, of a plea of trespass on the case, &c. (or as the plea is) : For that whereas, (&c.)

(§ 26.)
The like,
against an at-
torney or side
clerk, on the
equity side of
the Exchequer.

In the Exchequer of Pleas.

— term, (&c.)

— (to wit.) *A. B.* a debtor, (&c.) cometh before the barons, (&c.) and complains by bill against *C. D.* gentleman, one of the sworn attornies (or one of the side-clerks of *G. H.* gentleman, one of the sworn attornies) in the king's remembrancer's office of this Exchequer, present here in court, &c. (as in the last).

(§ 27.)
Undertaking to
pay an attor-
ney's bill, on
taxation, in the
Exchequer.

In the Exchequer of Pleas.

A. B. plaintiff,

and

C. D. defendant.

I the undersigned *A. B.* do hereby submit, undertake and agree, to pay *E. F.* of — gentleman, my late attorney, all such sums of money as shall happen or appear to be due and owing to him, on the taxation of his bill of costs, delivered to me on or about the — day of — 18—, amounting to the sum of —l.

A. B.

Witness, *G. H.*

— the

— the — day of — 18—. This is the undertaking mentioned and referred to in and by the affidavit hereunto annexed, sworn this day before me,

CHAP. XV.
(§ 28.)
Memorandum
thereon.

I. K. a Commissioner.

In the Exchequer of Pleas.

A. B. plaintiff,

and

C. D. defendant.

(§ 29.)
Affidavit of signature of same.

E. F. of — gentleman, maketh oath and saith, that he was present, and did see the above-named plaintiff *A. B.* in the annexed undertaking named, write and subscribe his name thereto; and that the name *A. B.* thereto set and subscribed, is of the proper handwriting of the said *A.*

E. F.

Sworn, (&c.)

CHAP. XVI.

Of the PROCEEDINGS in ACTIONS against PRISONERS, in CUSTODY of the SHERIFF, &c. ; or of the MARSHAL of the KING'S BENCH, or WARDEN of the FLEET PRISON.

(§ 1.)
Beginning of
declaration,
where defend-
ant is in cus-
tody of the
sheriff, in K. B.

Law & Markham.

— term, in the — year of the reign of king
George the Third.

— (to wit.) *A. B.* complains of *C. D.* being in the cus-
tody of the sheriff of — by virtue of a certain precept called
a bill of *Middlesex*, (or, by virtue of a certain writ of our lord
the king called a *latitat*, or *alias capias*, &c.) issuing out of the
court of our said lord the king before the king himself, at the
suit of the said *A. B.* against the said *C. D.* and returnable
in the same court, on — next after — in this same term ;
for that whereas, (&c.)

(§ 2.)
The like, where
defendant is in
custody of the
sheriff of a
county-pala-
tine.

— (to wit.) *A. B.* complains of *C. D.* being in the cus-
tody of the sheriff of the county palatine of — by virtue of
a certain writ of our lord the now king called a *latitat*, issuing
out of the court of our said lord the king, before the king him-
self, at the suit of the said *A. B.* against the said *C. D.* direct-
ed to —, and also by virtue of a certain other writ of our said
lord the king, under the seal of the said county-palatine,
thereupon duly made, and directed to the sheriff of the same
county-palatine ; for that whereas, (&c.)

(§ 3.)
The like, where
is defendant
in custody of
an officer of a
particular fran-
chise.

— (to wit.) *A. B.* complains of *C. D.* being in the cus-
tody of —, by virtue of a certain writ of our lord the now
king, called a *latitat*, issuing out of the court of our said lord
the king, before the king himself, at the suit of the said *A. B.*
against the said *C. D.* and also by virtue of the said sheriff's
mandate on the said writ, directed to —, afore said, of a plea
of trespass on the case, &c. (or as the pleas is) ; for that where-
as, (&c.)

— to

— (to wit). *A. B.* complains of *C. D.* and *E. F.* the said *C. D.* being in the custody of the sheriff of — by virtue of a certain precept called a bill of *Middlesex*, (or, by virtue of a certain writ of our lord the now king called a *latitut*, or *alias capias*, &c.) issuing out of the court of our lord the king before the king himself, at the suit of the said *A. B.* against the said *C. D.* and the said *E. F.* being in the custody of the marshal, (&c.); for that whereas, (&c.)

CHAP. XVI.
(§ 4.)
The like, against two defendants, where one is in custody of the sheriff, and the other of the marshal.

To the Barons of his majesty's Exchequer at *Westminster*.

(§ 5.)
The like, in the Exchequer, against a prisoner in custody of the sheriff.

— term, (&c.)

— (to wit). *A. B.* a debtor to our sovereign lord the now king, comes before the barons of this Exchequer, on the — day of — in this same term, by *E. F.* his attorney; and complains by bill against *C. D.* being a prisoner in the custody of the sheriff of —, by virtue of his majesty's writ of *quo minus*, issued out of the court here, against the said *C. D.* at the suit of the said *A. B.* and returnable at a day now past, of a plea of trespass on the case, &c. (or as the plea is); for that whereas, (&c.)

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

A. B. plaintiff,
and
C. D. defendant.

(§ 6.)
Affidavit of delivery of copy of declaration.

E. F. of — gentleman, maketh oath and saith, that he did, on the — day of — instant, (or last past,) deliver unto *G. H.* the gaoler or keeper of his majesty's gaol or prison in and for the county of —, a true copy of the declaration hereunto annexed; and the said gaoler or keeper then acknowledged to this deponent, that the said defendant was a prisoner in the said gaol or prison, at the suit of the said plaintiff, by virtue of a writ of *latitut* (or *capias ad respondendum*, or *quo minus*, &c.) issued out of this honourable court, and returnable before the delivery of the said declaration.

Sworn, (&c.)

E. F.

— (to wit). *Habeas corpus* for *C. D.* to do and receive, &c. returnable immediately.

(§ 7.)
Præcipe for *habeas corpus cum causâ*, in K. B.

E. F. attorney.
George

CRAP. XVI. *George the Third, (&c.)* To the sheriff of — greeting : We
 (§ 8.)
 Writ of habeas
 corpus cum cau-
 sa, to do and
 rective, &c.
 command you, that you have the body of *C. D.* detained in
 our prison under your custody, ~~that~~ it is said, under safe and
 secure conduct, together with the day and cause of his being
 taken and detained, by whatsoever name he may be called in
 the same, before our right trusty and well-beloved *Edward*
 Lord *Ellenborough*, our chief-justice assigned to hold pleas in
 our court before us, (in K. B. ; or in C. P. before Sir *Vicary*
Gibbs knight, our chief-justice of the Bench,) at his chambers,
 situate in *Serjeant's-Inn, Chancery-Lane, London*, immediately
 after the receipt of this writ, to do and receive all and singular
 those things which our said chief-justice shall then and there
 consider of him ~~N~~ this behalf ; and have there then (omitting
 the word “ there” in C. P.) this writ. Witness *Edward* Lord
Ellenborough, (or in C. P. Sir *Vicary Gibbs* knight,) at *West-*
minster, the — day of — in the — year of our reign.

E. F. attorney.

(§ 9.)
 The like, in the
 Exchequer.

George the Third, (&c.) To the marshal of our marshalsea,
 or his deputy there, greeting : We command you, that you
 have the body of *C. D.* or by whatsoever other name or addition
 he may be known or distinguished, taken and detained in our
 prison under your custody, as it is said, together with the day
 and cause of taking and detaining him, before the honourable
 Sir *Alexander Thomson* knight, chief-baron of our Exchequer,
 at his house, situate, (&c) immediately after the receipt of this
 our writ, to do and receive what our said chief-baron shall
 then and there think fit to order concerning him ; and have
 there this writ. Witness Sir *Alexander Thomson* knight, at
Westminster, the day of in the year of our

G. H. (clerk in court.)

I.

Rose.

(§ 10.)
Habeas corpus
ad responden-
dum, in K. B.

George the Third, (&c.) To the warden of our prison of the
Fleet, greeting : We command you, that you have the body
 of *C. D.* detained in our prison under your custody, as it is
 said, under safe and secure conduct, together with the day and
 cause of his being taken and detained, by whatsoever name he
 may be called in the same, before us at *Westminster*, on —
 next after —, to answer *A. B.* in a plea of trespass, and also to
 a bill

a bill of the said *A. B.* to be exhibited against the said *C. D.* for — *l.* upon promises; and further to do and receive all and singular those things which our said court before us shall then and there consider of him in this behalf; and have there then this writ. Witness *Edward Lord Ellenborough, (&c.)*

Law & Markham.

Oath for — *l.* by affidavit filed.

E. P. attorney.

George the Third, (&c.) To the marshal of our marshalsea before us, greeting: We command you, that you have the body of *C. D.*, &c. (as in the last,) before our justices at *Westminster*, on — to answer *A. B.* in a plea of trespass, and also in a plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.* (or as the plea is); and further to do and receive all and singular those things which our said justices shall then and there consider of him, in this behalf; and have there then this writ. Witness *Sir Vicary Gibbs knight, (&c.)* (§ 11.)
The like, in C. P.

George the Third, (&c.) To the marshal of our marshalsea, or his deputy there, greeting: We command you, that you have under safe and secure conduct, the body of *C. D.* or by whatsoever other name or addition he may be known or distinguished, detained in our prison under your custody, as it is said, together with the day and cause of taking and detaining him in the same, before the barons of our Exchequer at *Westminster*, on — next coming, to answer *A. B.* our debtor, of a plea of trespass on the case, (or as the plea is); and further to do and receive what our said court shall then and there think fit to order concerning him; and have there this writ. Witness, (&c.) (§ 12.)
The like, in the Exchequer.

Rose.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you have the body of *C. D.* by you taken, and in our prison under your custody detained, although sick, &c. by your return, sent into our court before us, (or in C. P. before our justices at *Westminster*), manifestly appears, (or, as manifestly appears to us, or in C. P. to our said justices, (§ 13.)
The like, licet languidus.

CHAP. XVI. justices, by the return of — late sheriff of the county afore-
said,) before us at *Westminster*, on — next after —, (or in
C.P. before our justices at *Westminster*, on —) to answer
to *A. B.* (&c.)

(§ 14.) — (to wit.) *Habeas corpus ad satisfaciendum* for *A. B.*
Præcipe for ha- against *C. D.* for —*l.* damages, (or for —*l.* debt, and
beas corpus ad —*l.* damages and costs,) returnable, (&c.)
satisfaciendum.

E. F. Attorney.

(§ 15.) *George the Third*, (&c.) To the warden of our prison of the
Habeas corpus *Fleet*, greeting: We command you, that you have before us at
ad satisfaciendum, in K. B. *Westminster*, on — next after —, the body of *C. D.* de-
tained in our prison under your custody, as it is said, under
safe and secure conduct, together with the day and cause of his
being taken and detained by whatsoever name he may be
called in the same, to satisfy *A. B.* —*l.* which the said *A. B.*
lately in our court before us at *Westminster*, recovered against
the said *C. D.* for his damages which he had sustained, as
well by reason of the not performing certain promises and un-
dertakings, then lately made by the said *C. D.* to the said *A. B.*
as for his costs and charges by him laid out about his suit in
that behalf, (or if in debt, “to satisfy *A. B.* as well a certain
debt of —*l.* which the said *A. B.* lately in our court before
us at *Westminster*, recovered against the said *C. D.* as also
—*l.* for his damages which he had sustained, as well by rea-
son of detaining the said debt, as for his costs and charges, &c.”)
whereof the said *C. D.* is convicted, as appears to us of re-
cord; and further to do and receive what our said court before
us shall then and there consider of him in this behalf; and have
there then this writ. Witness *Edward Lord Ellenborough*,
(&c.)

(§ 16.) *George the Third*, (&c.) To the marshal of our marshalsea
The like, in before us, greeting: We command you, that you have before
C. P. our justices at *Westminster*, on — the body of *C. D.* de-
tained in our prison, (&c.) to satisfy *A. B.* —*l.* which
were adjudged to the said *A. B.* in our court before our jus-
tices aforesaid, for his damages which he had sustained, by
reason of the not performing certain promises and underta-
kings, lately made by the said *C. D.* to the said *A. B.* at —
in

in the county of — (or if in *debt*, to satisfy *A. B.* as well a certain debt of — *l.* which the said *A. B.* lately in our court before our justices aforesaid, recovered against the said *C. D.* as also — *l.* which in our same court were adjudged to the said *A. B.* for his damages which he had sustained, by reason of the detaining the said debt,) whereof the said *C. D.* is convicted: and further to do and receive, (&c.) Witness Sir Vicary Gibbs knight, (&c.)

George the Third, (&c.) To our warden of our prison of the *Fleet*, or his deputy there, greeting: We command you, that you have the body of *C. D.* detained in our prison, under your custody, as it is said, under safe and secure conduct, together with the day and cause of his being taken and detained, by whatsoever name he may be charged in the same, before the barons of our Exchequer at *Westminster*, on — instant (or next), to satisfy *A. B.* our debtor, of — *l.* which the said *A. B.* in our court, before the barons of our said Exchequer at *Westminster*, recovered against him the said *C. D.* for his damages which he had sustained, by reason of the not performing certain promises and undertakings, by the said *C. D.* to the said *A. B.* lately made; whereof the said *C. D.* is convicted, as by inspecting the rolls of our said Exchequer appears to us: and further to do and receive what our said court shall then and there think fit to order concerning him; and have there this writ. Witness, (&c.)

(§ 17.)
The like, in the
Exchequer.

Rose.

By virtue of this writ to me directed, I have the body of the within-named *C. D.* ready before the barons of the king's Exchequer at *Westminster*, on the day within-mentioned, and by this writ I am commanded.

(§ 18.)
Return thereto.

The answer of — Esquire, Warden.

Law & Markham

— term, in the — year of the reign of King

George the Third.

(§ 19.)
Beginning of
bill against a
prisoner, in
custody of the
marshal, in
K. B.

— (to wit) *A. B.* complains of *C. D.* being in the custody of the marshal or the marshalsea of our lord the now king, before the king himself; for that whereas, (&c.)

M

— (to

CHAP. XVI.

(§ 20.)
The like, where
the cause of
action arises,
and the bill is
filed in vaca-
tion.

— (to wit.) Be it remembered, that on the — day of — in the — year of the reign of our lord the now king, (a day after the cause of action accrued,) *A. B.* brought into the office of the clerk of the declarations of the court of our said lord the king before the king himself, according to the course and practice of the same court, his certain bill against *C. D.* being in the custody, (&c.) of a plea of trespass on the case, &c. (or as the plea is,) and filed the same bill as of — term, in the — year of the reign of our said lord the king; which said bill follows in these words, (that is to say :) — (to wit.) *A. B.* complains of *C. D.* being, (&c.)

(§ 21.)
Beginning of
declaration
against a pri-
soner, in custo-
dy of the war-
den, in C. P.

In the Common Pleas.

— term, (&c.)
— (to wit.) *C. D.* was attached (or summoned) to an-
swer *A. B.* in a plea of trespass on the case, &c. (or as the
plea is); and thereupon the said *A. B.* by *E. F.* his attorney
complains, that whereas, (&c.)

(§ 22.)
Affidavit of the
delivery there-
of.

In the Common Pleas.

A. B. plaintiff,
and
C. D. defendant.

E. F. of — maketh oath and saith, that he did, on the
— day of — instant (or last past), deliver unto *G. H.* one
of the turnkeys of the Fleet prison, at the lodge of the said
prison, a true copy of the declaration hereunto annexed; and
the said turnkey then acknowledged to this deponent, that
the said defendant was at that time prisoner in the said
prison of the Fleet, at the suit of the said plaintiff.

Sworn, (&c.)

E. F.

(§ 23.)
Beginning of
declaration in
the Exchequer,
against a pri-
soner in custo-
dy of the
warden.

To the barons of his majesty's Exchequer at
Westminster.

— term, (&c.)

— (to wit.) *A. B.* a debtor to our sovereign lord the now
king, cometh before the barons of this Exchequer, on the
— day of — in this same term, by *E. F.* his attorney;
and complains by bill against *C. D.* being prisoner in the
custody of the warden of his majesty's prison of the Fleet, of a
plea of trespass on the case, &c. (or as the plea is): For that
whereas, (&c.)

To

To the barons of his majesty's Exchequer at **CHAP. XVI.**
Westminster. (24.)

The like, where the prisoner is charged in court, on habeas corpus.

— term, (&c.)
— (to wit.) *A. B.* a debtor to our sovereign lord the now king, cometh before the barons of this Exchequer, on the — day of — in this same term, (the return of the *habeas corpus*), by *E. F.* his attorney; and complains by bill against *C. D.* being a prisoner present here in court in his proper person, by virtue of his majesty's writ of *habeas corpus*, directed to the marshal of the marshalsea of our said lord the king before the king himself, and by the said marshal now returned here in court, of a plea, (&c.)

B. } It is ordered, that the marshal of the marshalsea
v. } of this court shall bring the defendant into this court,
D. } within three days next after notice of this rule to be given to him, or shall give a note in writing under his hand, acknowledging the defendant to be in his actual custody, or shall shew cause to the contrary within the time aforesaid, upon notice thereof being given to the attorney or the plaintiff.

(§ 25.)
Rule on marshal, to acknowledge defendant in his custody, in K. B.

— (to wit). *C. D.* is committed to the custody of the marshal, &c. in execution, at the suit of *A. B.* in a plea of trespass on the case, for — *l.* damages, (or, in a plea of debt for — *l.* and — *l.* damages,) there to remain until, &c.

(§ 26.)
Committitur-piece, in K. B.

Judgment of — term, —
George the Third. Roll —.

E. F. attorney.

If the final judgment be entered on a roll of a preceding term to that in which it is signed, as after an interlocutory judgment, &c. mention the term, as well as the number of the roll.

Afterwards, (to wit,) on — next after — in the — year of the reign of our lord the now king, before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person; and the said *C. D.* being then present here in court, at the prayer of the said *A. B.* by the court of our said

(§ 27.)
Entry of committitur, in K. B.

CHAP. XVI. lord the king now here, is committed to the custody of the marshal or marshalsea of the said lord the king before the king himself, in execution for the damages (or for the debt and damages) aforesaid, there to remain until the said *A. B.* shall be fully satisfied the damages (or debt and damages) aforesaid.

(§ 28.)
Orders of commitment, in the Exchequer.

A. B. plaintiff, against *C. D.* defendant.

— term, (&c.)

— the — day of —

On such day, the said defendant *C. D.* was brought to the bar of this court, by virtue of his majesty's writ of *habeas corpus*, directed to the warden of his majesty's prison of the *Fleet*, to satisfy *A. B.* his majesty's debtor, of — *l.* which the said *A. B.* in his majesty's court, before the barons of his Exchequer at *Westminster*, recovered against him the said *C. D.* for his damages which he had sustained, by reason of the not performing certain promises and undertakings, lately made by the said *C. D.* to the said *A. B.* whereof he is convicted; whereupon, on reading the said writ of *habeas corpus*, and the return made thereon by — Esquire, warden of his said majesty's prison of the *Fleet*, and the record of the judgment in this court, against the said *C. D.* at the suit of the said *A. B.* and upon the motion of Mr. — of counsel for the said plaintiff; it is ordered, that the defendant *C. D.* be remanded to the custody of the warden of his said majesty's prison of the *Fleet*, charged in execution at the suit of the said *A. B.* for the said sum of — being the damages aforesaid, there to remain, until he shall fully satisfy the said *A. B.* the damages aforesaid.

By the Court.

Rose.

(§ 29.)
Gaoler's certificate, for the discharge of a prisoner, in K. B.

I *E. F.* keeper of the county-gaol of — do certify, that *C. D.* was on the — day of — last, (or *A. D.* 18—) committed to the county-gaol of — by virtue of a writ of *latitat* issued out of his majesty's court of King's Bench at *Westminster*, returnable on — next after —, at the suit of *A. B.* in a plea of, (&c.): And I do further certify, that since the said commitment, there has not been delivered to me, or my turnkey, any declaration against him the said *C. D.* at the suit of the said *A. B.* or any other person whatsoever; and

that

that no writ of *habeas corpus* has been sought for the removal of the said *C. D.* Witness my hand, (&c.)

E. F.

Witnesses,

G. H.

I. K.

in the King's Bench.

A. B. plaintiff

and

C. D. defendant

(§ 30.)
Affidavit of
gabler's ma-
ture there

G. H. of — maketh oath and saith, that he this deponent did, on the — day of — last, see *E. F.* keeper of his majesty's gaol in and for the county of — subscribe his name to the certificate hereunto annexed, and that at the same time he this deponent subscribed his name as a witness to the said certificate, and that *J. K.* of — did then also subscribe his name as a witness to the said certificate, in the presence of this deponent.

Sworn, (&c.)

G. H.

— (to wit.) *Supersedeas*, for *C. D.* at the suit of *A. B.*

E. F. attorney.

— 18—.

(§ 31.)
Præcipe for *su-
persedeas*, in
K. B.

George the Third, (&c.) To the sheriff of — greeting: Whereas by our writ, we lately commanded you, that you should take *C. D.* if he should be found in your bailiwick, and him safely keep, that you might have his body before us at *Westminster*, on — next after —, to answer *A. B.* of a plea of trespass, and also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for — upon promise, (or as the plea is,) according to the custom of our court before us: And because it appears to our said court before us, that the said *C. D.* hath found good and sufficient bail to answer the said *A. B.* of the plea and to the bill aforesaid; therefore we command you, that if the said *A. B.* be detained in our prison, under your custody, by virtue of the said writ, and for no other cause, then do you immediately discharge the said *C. D.* out of your custody, and permit him to go at large, as you will answer the contrary at your peril. Witness *Edward* Lord *Ellenborough*, (&c.)

(§ 32.)
Writ of *super-
sedeas*, upon the
defendant's
putting in good
bail, by bill in
K. B.

George

By order of Mr. Baron —, bearing date the — day of **CHAP. XVI.**

— 18—.

(§ 36.)

Indorsement
thereon.

George the Third, (&c.) To the sheriff of — greeting: (§ 37.)

Whereas by our writ, we lately commanded the late sheriff of your county, that he should omit not by reason of any liberty of his county, &c. (as in the last: And because sufficiently appears to our said court, before the barons of our said Exchequer at *Westminster*, that the said *C. D.* hath duly obtained his certificate, under a commission of bankrupt, awarded and issued against him; therefore we command you, &c. (as before, p. 165.)

The like, where
defendant has
obtained his
certificate, un-
der a commis-
sion of bank-
rupt.

George the Third, (&c.) To the sheriff of — greeting: (§ 38.)

Whereas we lately commanded you, (or, by our writ of attachment with proclamation, we lately commanded you,) that you should omit not by reason of any liberty of your county, but that you should enter the same, &c. (reciting the writ of attachment, or *pluries* attachment with a clause of proclamation, for which *vide ante*, p. 86, stating it to have been returnable at a day now past); as in our said writ is more fully contained: And because the said *C. D.* hath since the issuing of our said writ, come before the barons of our Exchequer, and put in his place *G. H.* his attorney, to answer *A. B.* at whose instance our said writ issued; therefore we command you, &c. (as before, p. 165.)

The like, on
process for
contempt.

George the Third, (&c.) To the sheriff of — greeting: (§ 39.)

Whereas by our writ we lately commanded you, that you should take *C. D.* if he should be found in your bailiwick, and him safely keep, &c. (as before, p. 40): And because the said *A. B.* hath not declared against the said *C. D.* within two terms next after the return of the said writ, and the said *C. D.* hath come into our said court before us, and filed common bail at the suit of the said *A. B.* in the plea and to the bill aforesaid; therefore we command you, that if the said *C. D.* be detained, &c. (as before, p. 165.) Witness *Edward Lord Ellenborough, (&c.)*

The like, for
not declaring
upon a *latitat*,
in K. B.

George the Third, (&c.) To the sheriff of — greeting: (§ 40.)

Whereas by our writ we lately commanded you, that you should

The like, by
original, in
K. B.

CHAP. XVI. should take *C. D.* late of — if he should be found in your bailiwick, and him safely keep, so that you might have his body before us, on — wheresoever we should then be in *England*, to answer *A. B.* of a plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.* (or as the plea is): And because the said *A. B.* hath not declared, (&c.) and the said *C. D.* hath come into our court before us, and appeared at the suit of the said *A. B.* in the plea aforesaid; therefore we command you, &c. (as before, p. 165.)

(§ 41.)
The like, for
not proceeding
to trial or final
judgment, in
K. B.

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* is detained in our prison, under your custody, by virtue of a certain writ of *latitat* (or *special copias ad respondendum*), issuing out of our court before us, and returnable on, (&c.) to answer *A. B.* of a plea of trespass, and also to a bill, &c. (as in the writ): And whereas the said *C. D.* in — term last past, was charged with a declaration, at the suit of the said *A. B.* upon the said writ: But because it appears to us, that the said *A. B.* hath not proceeded to trial or final judgment against the said *C. D.* within three terms next after the delivery of the said declaration, according to the course and practice of our court before us; and because the said *C. D.* hath come into our said court before us, and filed common bail (or appeared) at the suit of the said *A. B.* in the plea (or in the plea and to the bill) aforesaid; therefore we command you, that if the said *C. D.* be detained, &c. (as before, p. 165.)

(§ 42.)
The like, to the
warden of the
Fleet, where
the prisoner
had rendered
himself in dis-
charge of his
bail, in *K. B.*
and was re-
moved to the
Fleet by *ha-*
beas corpus.

George the Third, (&c.) To the warden of our prison of the Fleet, greeting: Whereas *C. D.* was lately committed to and is detained in our said prison, under your custody, upon and by virtue of our writ of *habeas corpus cum causa*, directed to the marshal of our prison of the marshalsea; and by the return thereof it appeared, that the said *C. D.* had rendered himself, and was committed to the said marshal's custody, in discharge of his bail, at the suit of *A. B.* in a plea of trespass on the case, (or as the plea is,) depending in our court before us at *Westminster*, and the said *A. B.* hath declared in our said court before us, against the said *C. D.* in the plea aforesaid: And because it appeareth to us, that the said *A. B.* hath

hath not proceeded to trial or final judgment against the said *C. D.* in the plea aforesaid, in due time, according to the rules of our said court before us, and because the said *C. D.* hath filed common bail in our said court before us, at the suit of the said *A. B.* in the plea aforesaid; we command you, that if the said *C. D.* be detained in our said prison of the *Fleet*, under your custody, for the cause aforesaid, and no other, then do you immediately discharge the said *C. D.* &c. (as before, p. 165.) Witness *Edward Lord Ellenborough*, (&c.)

George the Third, (&c.) To the sheriff of — greeting: (§ 43.)
Whereas *C. D.* is detained in our prison, under your custody, by virtue of our writ of *capias ad respondendum*, returnable before our justices at *Westminster*, on — last past, to answer *A. B.* in a plea of trespass, and also in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.* (or as the plea is): And whereas the said *C. D.* afterwards, that is to say, on the — day of — last past, was charged with a declaration, at the suit of the said *A. B.* in the plea last aforesaid: But because it sufficiently appears to our said justices at *Westminster*, that the said *C. D.* hath appeared in our court before our justices aforesaid, to answer the said *A. B.* in the plea last aforesaid; and that the said *A. B.* hath not proceeded to judgment against the said *C. D.* within three terms after the delivery of the said declaration, as required by the rules of our said court; therefore we command you, that if the said *C. D.* be detained, &c. (as before, p. 165.) Witness *Sir Ficary Gibbs* knight, (&c.)

George the Third, (&c.) To the sheriff of — greeting: (§ 44.)
Whereas *C. D.* is detained, &c. (as before, §. 41., to the end of the statement of the writ, and then as follows): And whereas the said *A. B.* in — term last past, obtained judgment in our court before us, against the said *C. D.* upon the said writ: But because it appears to us, that the said *A. B.* hath not proceeded to charge the said *C. D.* in execution, within two terms after the said judgment so obtained, according to the course and practice of our said court before us; and because the said *C. D.* hath come into our said court before us, and filed common bail, &c. (as before).

George

CHAP. XVI. *George the Third, (&c.) To the warden of our prison of the Fleet, greeting: Whereas C. D. on the — day of — 18— rendered himself to our said prison of the Fleet, before the honourable Mr. Justice —, one of the justices of our court of the Bench, in discharge of his bail, at the suit of A. B. in a plea, (&c.): And whereas the said A. B. afterwards, that is to say, in — term last past, obtained judgment in our court before our justices at Westminster, against the said C. D. in the plea aforesaid; and because the said A. B. hath not proceeded to charge the said C. D. in execution, within two terms next after the said judgment so obtained as aforesaid, according to the rules of our said court; therefore we command you, that if the said C. D. be detained in our said prison, under your custody, for the cause aforesaid, and no other, then do you immediately discharge the said C. D. &c. (as before, p. 165.) Witness Sir Vicary Gibbs knight, (&c.)*

(§ 46.) *George the Third, (&c.) To the warden of our prison of the Fleet, or his deputy there, greeting: Whereas A. B. our debtor, in our court before the barons of our Exchequer at Westminster, heretofore, to wit, in the term of — last past, impleaded C. D. being a prisoner in your custody, of a plea of trespass in the case upon promises, (or as the plea is,) to the damage of the said A. B. of — l. as appears to us of record: And because the said A. B. hath not since that time proceeded to judgment against the said C. D. (or charged the said C. D. in execution, &c. as the case is,) in the plea aforesaid, according to the course of our said court; and the said C. D. having by G. H. his attorney, appeared in our said court, to answer the said A. B. in the plea aforesaid; therefore we command you, &c. (as in the last.) Witness Sir Alexander Thomson knight, (&c.)*

(§ 45.)
The like, in
C. P.

To the Right Honourable *Edward Lord Ellenborough*, CHAP. XVI.
and the rest of the Judges of his Majesty's Court
of King's Bench at *Westminster*.

(§ 47.)
Petition for
day-rule, in
K. B.

The humble petition of *C. D.* a prisoner in actual custody
of the marshal of this court, whose name is hereunto sub-
scribed,

Sheweth,

That your said petitioner, having this day occasion to treat
with his several creditors, advise with his counsel, and follow
his several suits at law, in order to his discharge, humbly
prays, that he may have leave to go out of the prison this
day, for the purposes aforesaid, and to return again the same
day.

And your petitioner shall ever pray, &c.

C. D.

— term, in the — year of the reign of king
George the Third.

(§ 48.)
Day-rule there-
on.

England. Upon reading the petition of *C. D.* a prisoner in
the custody of the marshal of the marshalsea of this court, this
day presented to this court, thereby praying that the said
C. D. might have leave to go out of the said prison, for the
purposes in the said petition set forth; it is ordered, that the
said *C. D.* have leave to go out of the said prison, he returning
again into the custody of the said marshal, on this day.

By the Court.

In the King's Bench,

(Common Pleas, or
Exchequer of Pleas.)

A. B. against *C. D.*

To Mr. *A. B.*

(§ 49.)
Notice by pri-
soner, of his in-
tention to peti-
tion on the
lords' act.

Take notice, that I intend, at the expiration of fourteen
days from the delivery hereof, or so soon after as I can be
heard, to petition his majesty's court of King's Bench, (or
Common Pleas, or Exchequer) at *Westminster*, for such relief
and benefit as I am entitled to, by virtue of an act of parlia-
ment made and passed in the thirty second year of the reign
of his late majesty king *George the second*, intituled, "An

CHAP. XVI. act for the relief of debtors, with respect to the imprisonment of their persons," (&c.) and also of an act made and passed in the thirty third year of the reign of his present majesty, intituled, "An act for the further relief of debtors," (&c.) and also of an act made and passed in the thirty seventh year of the reign of his present majesty, intituled, "An act to amend so much of the first-mentioned act as relates to the weekly sums thereby directed to be paid to prisoners in execution for debt, in the cases therein mentioned," and that I have no debts, estate or effects whatsoever, nor had I at the time of my first imprisonment in this action, or at any time since, either in possession, reversion, remainder or expectancy, other than and except what are mentioned and contained in the schedule or inventory here-under written, (if there be one,) and the necessary wearing apparel and bedding for myself and family, and the tools or instruments of my trade or calling, not exceeding the sum of ten pounds in value in the whole. As witness my hand, this — day of — 18—.

C. D.

Witness, *E. F.*

(§ 50.)
Schedule.

A schedule or inventory of all the estate and effects, which I *C. D.* a prisoner in execution in the custody of the marshal of the marshalsea, (or of the warden of his majesty's prison of the Fleet, or of *G. H.* Esquire, sheriff of the county of —) at the suit of *A. B.* or any person or persons in trust for me, was or were possessed of or entitled unto, at the time of my first imprisonment, at the suit of the said *A. B.* or at any time since, either in possession, reversion, remainder or expectancy, other than and except the necessary wearing apparel and bedding of or for me and my family, and the tools or instruments of my trade or calling, not exceeding ten pounds in value in the whole. As witness my hand, this — day of — 18—.

Real estate: (describing it, if any, according to the mode pointed out by the statute; or if there be none, say, "I have none, either in possession, reversion, remainder or expectancy.")

Goods: (setting them forth.)

Debts:

Debts : (naming the persons from whom they are due, and stating the amount of them ; and if arising on notes or bills, their dates, &c.)

Witness, *E. F.*

C. D.

In the King's Bench,

A. B. plaintiff,

(§ 51.)

(Common Pleas, or

and

Affidavit to be annexed to notice and schedule.

Exchequer of Pleas)

C. D. defendant.

E. F. of — maketh oath and saith, that he was present and did see the above-named defendant *C. D.* sign his name (or mark) to the notice and schedule hereunto annexed, on the day of the date thereof, and also to a copy of the same ; and that the name *E. F.* subscribed as a witness thereto, is of the proper hand-writing of this deponent.

Sworn, (&c.)

E. F.

E. F. of — maketh oath and saith, that he this deponent did, on — the — day of — instant (or last), personally serve the above-named plaintiff *A. B.* with a true copy of the notice (and schedule, if any) hereunto annexed ; (or did serve the above-named plaintiff *A. B.* with a true copy, (&c.) by delivering the same to the wife (or servant) of the said *A. B.* at his dwelling-house or place of abode, situate at — in the county of —.

(§ 52.)

Affidavit of service of notice and schedule.

Sworn, (&c.)

E. F.

To the right honourable *Edward* Lord *Ellenborough*, lord chief-justice of his majesty's court of King's Bench (or, in C. P. To the right honourable Sir *Vicary Gibbs* knight, lord chief-justice of his majesty's court of Common Pleas) at *Westminster*, and the rest of the judges of the same court : (or, in the Exchequer of Pleas, To the right honourable Sir *Alexander Thomson* knight, lord chief-baron of his majesty's court of Exchequer at *Westminster*, and the rest of the barons of the same court.)

(§ 53.)

Petition.

The humble petition of *C. D.*

Sheweth,

That your petitioner is a prisoner in the custody of the marshal of the marshalsea, (or, of the warden of his majesty's prison of the *Fleet*, or in his majesty's gaol in and for the county

CHAP. XVI. county of —), charged in execution at the suit of *A. B.* for the sum of —*l.* damages and costs, (or —*l.* debt and —*l.* damages,) as by the certificate annexed more fully appears.

That your petitioner humbly sheweth and he is entitled to the benefit of an act of parliament made and passed in the 32d year of the reign of his late majesty *George the Second*, intituled, "An act for the relief of debtors, with respect to the imprisonment of their persons, (&c.)" and also of an act made and passed in the 33d year of the reign of his present majesty, intituled, "An act for the further relief of debtors, (&c.)" and also of an act made and passed in the 37th year of his present majesty, intituled, "An act to amend so much of the first-mentioned act, as relates to the weekly sums thereby directed to be paid to prisoners in execution for debt, in cases therein mentioned."

That your petitioner hath not at the time of exhibiting this his petition, nor had he at the time of his first imprisonment in this action, or at any time since, any debts, estate or effects whatsoever, either in possession, reversion, remainder or expectancy, other than and except what are mentioned and contained in the schedule or inventory hereunto annexed, (if there be one,) and the necessary wearing apparel and bedding for himself and family, and the tools or implements of his trade and calling, not exceeding the sum of ten pounds in value in the whole.

Your petitioner being willing and desirous to conform himself to the directions of the said several acts, most humbly prays your lordships (or in the Exchequer your honours), to grant a rule or order of this honourable court, for the plaintiff to shew cause why he should not be discharged pursuant to the said acts.

And your petitioner, as in duty bound, will ever pray, &c.

C. D.

Schedule (if any) as before, p. 172.

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

A. B. plaintiff,
and
C. D. defendant.

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(§ 54.)
Gaoler's certi-
ficate, to be
written under a
copy of the
sheriff's war-
rant.

I *G. H.* gaoler or keeper of his majesty's gaol of — in
and for the county of — do hereby certify, that the above-
written is a true copy of the sheriff's warrant, on which the
defendant *C. D.* was taken, and by virtue whereof he was com-
mitted into my custody on the — day of — last, and
hath ever since continued thereon, nor have I any other de-
tainer against him. As witness my hand, the — day of —
18—.

Witness, *T. K.*

G. H.

E. F. of — maketh oath and saith, that he this deponent
did, on the — day of — instant (or last), see *G. H.* the
keeper of his majesty's gaol or prison of, (&c.) sign the certi-
ficate hereto annexed; and that the name *G. H.* set and sub-
scribed at the foot of the said certificate, is of the proper
hand-writing of the said *G. H.*

(§ 55.)
Affidavit of
gaoler's signa-
ture of certifi-
cate.

Sworn, (&c.)

E. F.

E. F. of — maketh oath and saith, that he this deponent
did, on the — day of — instant, personally serve the
above-named *A. B.* with a true copy of the rule hereto an-
nexed: (Or if the service was on his wife or servant, say,
“serve the above-named *A. B.* with a true copy, (&c.) by
delivering the same to the wife, or servant, of the said *A. B.*
at his dwelling house or place of abode, situate at — in the
county of —;” adding, in the Common Pleas or Exchequer,
and at the same time shewed him the said original rule.)

(§ 56.)
Affidavit of
service of rule.

Sworn, (&c.)

E. F.

A. B. } I hereby promise to pay and allow to *C. D.* three
v. } shillings and sixpence *per* week, weekly, on *Mon-*
C. D. } day in every week, for so long time as he shall
continue in prison in execution at my suit. As witness my
hand, this — day of — 18—.

(§ 57.)
Note for pay-
ment of allow-
ance.

Witness, *E. F.*

A. B.

In

CHAP. XVI. In the King's Bench, (&c.)

(§ 58.)
Affidavit of
signature of
same.

A. B. plaintiff,
and
C. D. defendant.

E. F. of — maketh oath and saith, that he this deponent was present and did see the above-named *A. B.* sign his name to the note or undertaking hereunto annexed, on the day of the date thereof: And that he further saith, that the name *A. B.* set and subscribed to the said note or undertaking, as the party signing the same, is of the proper hand-writing of the said *A. B.* and that the name *E. F.* set and subscribed as a witness to the said note or undertaking, is of the proper hand-writing of this deponent.

Sworn, (&c.)

E. F.

(§ 59.)

The like, on
an attachment
for contempt,
in K. B.

In the King's Bench.

The King against *C. D.*

Upon an attachment for contempt, in not paying — *l.* to *A. B.* pursuant to a rule of court.

E. F. of — maketh oath and saith, that he was present and did see the above-named *A. B.* duly sign, &c. (as in the last.)

(§ 60.)

Rule of court,
on defendant's
being remanded,
in the Ex-
chequer.

— term, in the — year of the reign of king
George the Third.

— the — day of — 18—.

A. B. against *C. D.* a prisoner.

On which day, the said defendant was brought up into court, pursuant to an order made on the — day of — last, for that purpose; and having taken the oath directed to be taken by the act of the thirty-second year of the reign of his late majesty, king *George* the second; and the plaintiff objecting to the discharge of the said defendant, and personally in court duly signing his note of hand, undertaking to pay and allow the said defendant three shillings and sixpence *per* week, weekly, on *Monday* in every week, for so long time as the said defendant shall continue in prison, in execution at his suit: Ordered thereupon, that the said defendant be, and he is hereby remanded to the custody of the warden of his majesty's prison of the *Fleet*, there to remain until, &c.

By the Court.

Rose.

In the King's Bench, (&c.)

A. B. against C. D. CHAP. XVI.

Sir,

(§ 61.)

Notice on compulsive clause, to prisoner.

Take notice, that I intend, on the first day of next — term, or as soon after as I can be heard, to petition his majesty's court of King's Bench (or Common Pleas, or Exchequer) at Westminster for a rule or order of the said court, directing you to be brought up into this honorable court, in order that you may be compelled to discover and deliver into the said court upon oath, a true account in writing, signed by you, of all your real and personal estates and of all incumbrances affecting the same, according to the best of your knowledge and belief, in order that your estate and effects may be devised out of you, and may, by the judges of the said court, be ordered to be assigned and conveyed, in manner and for the purposes declared in and by a certain act of parliament, made and passed in the 32d year of the reign of his late majesty king *George* the second, intituled, "An act for the relief of debtors, with respect to the imprisonment of their persons, and to oblige debtors who shall continue in execution in prison beyond a certain time, and for sums not exceeding what are mentioned in the act, to make discovery of and deliver upon oath, their estates for their creditors' benefit;" and also in and by a certain act of parliament, made and passed in the 33d year of the reign of his present majesty, intituled, "An act for the further relief of debtors, with respect to the imprisonment of their persons, and to oblige debtors who shall continue in execution in prison beyond a certain time, and for sums not exceeding what are mentioned in the act, to make discovery of and deliver upon oath, their estates for their creditors' benefit."

Dated the — day of — 18—.

A. B.

the above-named plaintiff.

To Mr. C. D.

the above-named defendant.

Witness, E. F.

By

In the King's Bench, (&c.)

A. B. against C. D.

(§ 62.)

Sir,

The like, to other creditors.

Take notice, that I intend, on the first day of next — term, or as soon after as I can be heard, to petition his majesty's

N

CHAP. XVI. jesty's court of King's Bench (Common Pleas, or Exchequer of Pleas) at *Westminster*, for a rule or order of the said court, directing the above-named defendant *C. D.* to be brought up into this honourable court, in order that he may be compelled to discover and deliver into the said court upon oath, a true account in writing, signed by him, of all his real and personal estate, and of all incumbrances affecting the same, according to the best of his knowledge and belief, in order that his estate and effects may be divested out of him, and may, by the judges of the said court, be ordered to be assigned and conveyed, in manner and for the purposes declared in and by a certain act of parliament made and passed in the 32d year of the reign of his late majesty king *George* the second, intituled, "An act for the relief of debtors," &c. (as in the last).

A. B.
the above-named plaintiff.

To *G. H.* (&c.) creditors
of the above-named defendant.

Witness, *J. K.*

(§ 63.)
Petition.

In the King's Bench, (&c.)

A. B. plaintiff,
and
C. D. defendant.

To the right honourable *Edward* Lord *Ellenborough*, &c. (as before, p. 19.)

The humble petition of *A. B.* of — the above-named plaintiff;

Sheweth,

That *C. D.* the above-named defendant is a prisoner in the custody of — charged in execution, at the suit of your petitioner, for the sum of — *l.* as appears by the annexed certificate.

That your petitioner apprehends he is authorized and empowered, by virtue of the compulsive clause in an act of parliament, made and passed in the 32d year of the reign of his late majesty king *George* the second, intituled, "An act for the relief of debtors, with respect to the imprisonment of their persons, and to oblige debtors who shall continue in execution in prison beyond a certain time, and for sums not exceeding what are mentioned in the act, to make discovery of,
and

and deliver upon oath, their estates for their creditors' benefit;" and also of an act of parliament, made and passed in the 33d year of the reign of his present majesty, intituled, "An act for the further relief of debtors, with respect to the imprisonment of their persons, and to oblige debtors who shall continue in execution in prison beyond a certain time, and for sums not exceeding what are mentioned in the act, to make discovery of and deliver upon oath, their estates for their creditors' benefit;" to compel the above-named defendant *C. D.* to deliver into this honourable court upon oath, a true account in writing, signed by the said defendant, of all his real and personal estate, and of all incumbrances affecting the same, according to the best of his knowledge and belief; in order that his estate and effects may be divested out of him, and assigned and conveyed in manner and for the purposes declared in the said several acts.

Your petitioner therefore humbly prays a rule or order of this honourable court, for the above-named defendant *C. D.* to shew cause, why he should not conform himself to the directions of the said acts.

And your petitioner shall ever pray, &c.

A. B.

the above-named plaintiff.

CHAP. 'XVII.

*Of the REMOVAL of CAUSES from INFERIOR COURTS,
by CERTIORARI, and HABEAS CORPUS, &c.*

(§ 1.)
Certiorari, to re-
move a cause
from an infe-
rior, to a supe-
rior court.

GEORGE the Third, (&c.) To — greeting: We being willing, for certain causes, to be certified of a plaint levied in our court before you, against *C. D.* at the suit of *A. B.* of a plea of trespass on the case, (or as the plea is,) command you, that you send to us at *Westminster*, on — next after —, (or in C. P. to our justices at *Westminster*, on —, or in the Exchequer, to the barons of our Exchequer at *Westminster*, on — next coming,) the plaint aforesaid, with all things touching the same, as fully and entirely as it remains in our court before you, by whatsoever names the parties may be called therein, together with this writ, that we may further cause to be done thereupon, what of right we shall see fit to be done. Witness *Edward* Lord *Ellenborough*, (or in C. P. Sir *Vicary Gibbs* knight, or in the Exchequer, Sir *Alexander Thomson* knight,) at *Westminster*, (&c.)

Borough of —.

* *I E. F.* Esquire, mayor of the borough of — aforesaid, to our lord the king do most humbly certify, that before the coming of the writ of our said lord the king to me directed, and to this schedule annexed, to wit, on the — day of — in the — year of the reign of our said lord the king, *A. B.* complained of *C. D.* in the aforesaid writ severally named, in a plea of trespass upon the case, (or as the plea is); and that afterwards, and before the coming of the aforesaid writ, to wit, on the — day of the same month of — the serjeants at mace of the said borough returned a *nihil*, in the court of our said lord the king of the borough aforesaid, then held at the *Guildhall* thereof: Whereupon a *capias ad respondendum* was awarded by the said court, against the said *C. D.* at the suit of the said *A. B.* in the plea aforesaid: And that afterwards, and also before the coming of the said writ, to wit, on the

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the — day of the said month of — the serjeants at mace of the said borough returned the said *capias*, in the court of our said lord the king of the borough aforesaid, then held at the *Guildhall* thereof, and that the said *C. D.* was not found within the said borough; which said *capias* was then and there filed of record: And that afterwards, and also before the coming of the said writ, to wit, on the — day of the said month of — another *capias ad respondendum* was awarded by the said court against the said *C. D.* at the suit of the said *A. B.* in the plea aforesaid: And that afterwards, and also before the coming of the said writ, to wit, on the — day of — then next, the serjeants at mace of the said borough returned the said last-mentioned *capias*, in the court of our said lord the king of the borough aforesaid, then held at the *Guildhall* thereof; a true copy of which appears to have been served on the said *C. D.* on the — day of the month of — by *G. H.* one of the serjeants at mace of the said borough; which said last-mentioned *capias* was then also filed of record: And that on the said — day of — at the said court of our said lord the king of the said borough, an appearance was entered for the said defendant. And this is the tenor of the record and process of the said plaint, had and prosecuted before me the mayor of the borough aforesaid.

E. F. Mayor.

George the Third, (&c.) To the mayor, aldermen and sheriffs of *London*, greeting: We being willing, for certain causes, to be certified as well of a certain bill original in our court before you, or some of you, levied or affirmed against *C. D.* late of — at the suit of *A. B.* of a plea of *debt* on demand for — *l.* as of a certain attachment thereupon made of — *l.* in the hands and custody of *E. F.* being attached and defended; command you, and every of you, that you send to us at *Westminster*, on — next after —, (or in C. P. to our justices at *Westminster*, on —,) the bill original and attachment aforesaid, with all things touching the same, as fully and entirely as they remain in our court before you, or any of you, by whatsoever names the parties may be called therein, together with this writ, that we may further cause to be done thereupon, what of right we shall see fit to be done. Witness *Edward Lord Ellenborough*, (or in C. P. Sir *Vicary Gibbs* knight,) at *Westminster*, (&c.)

(§ 3.)
Certiorari to the mayor, &c. of *London*, to remove a bill original and attachment.

London,

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(§ 4.)

Return then to
of proceedings
in the mayor's
court, by fo-
reign attach-
ment.

London, (to wit.) We — mayor, and the aldermen of the city of *London*, and also — and — sheriffs of the same city, do certify to our sovereign lord the king at *Westminster*, on — next after —, that before the coming of this writ to us, and to this schedule annexed, to wit, on the — day of — in the — year, (&c.) *A. B.* in his own proper person, came into the court of our lord the king, holden before — mayor, and the aldermen of the city of *London*, in the chamber of the *Guildhall* of the said city, situate in the parish of *St. Michael Bassishaw*, in the ward of *Bassishaw*, *London*; and then and there, according to the custom of the said city, affirmed against *C. D.* in the said writ named, a certain bill original, in a plea of *debt* upon demand of — *l.* of lawful money of *Great Britain*; and the said *A. B.* found pledges to prosecute his said bill, to wit, *John Doe* and *Richard Roe*; and at the same court, appointed in his stead *E. F.* his attorney, in the plea of the same bill original; and by his said attorney, prayed process to be awarded against the said *C. D.* in the plea aforesaid, according to the custom of the said city; and it was then and there granted to him, &c.: Whereupon, at the petition of the said *A. B.* made to the said court, by his said attorney, it was by the same court commanded to *G. H.* one of the serjeants at mace of the same court, that he, according to the custom of the said city, should summon by good summoners, the said *C. D.* to appear in the same court, to answer the said *A. B.* in the plea aforesaid; at which said court, the said serjeant at mace, according to the custom of the said city, returned and certified to the said court, according to the tenor of the said precept, that the said *C. D.* had nothing in the said city, whereby he could be summoned, nor was to be found within the same: Whereupon, at the same court, the said *C. D.* was solemnly called, and appeared not, but made default: And thereupon afterwards, at the same court, it was notified and made known to the said court, by the said *A. B.* by his said attorney, that *I. K.* and *L. M.* in the said writ also named, did owe to the said *C. D.* — *l.* in monies numbered, and then had and detained the same in their hands and custody: And thereupon the said *A. B.* by his said attorney, prayed process of the same court, according to the custom of the said city, to attach the said *C. D.* by his said monies, so being in the hands and custody of the said garnishees

nishees as aforesaid, and the same in their hands and custody to defend and keep, according to the custom of the said city, so that the said *C. D.* should appear in the same court, according to the custom of the said city, to answer the said *A. B.* in the plea aforesaid: And thereupon, at the petition of the said *A. B.* made to the said court by his said attorney, it was commanded by the same court, to the said serjeant at mace, that he, according to the custom of the said city, should attach the said *C. D.* by the said — *l.* in monies numbered, in the hands and custody of the said garnishees, and the same in their hands and custody should defend and keep, according to the custom of the said city, so that the said *C. D.* should appear at the next court, to be holden before the mayor and aldermen, in the chamber of the *Guildhall* in the same city, according to the custom of the said city, to answer the said *A. B.* in the plea aforesaid; and the same day is given by the court to the said *A. B.* to be there, &c.: Whereupon afterwards, to wit, at a court holden, &c. on the — day of — in the year aforesaid, the said *A. B.* by his said attorney appeared; and the said serjeant at mace returned and certified to the said court, that he, on the — day of — aforesaid, between the hours of 10 and 11 in the forenoon, according to the custom of the said city, had attached the said *C. D.* by the said — *l.* in monies numbered, being in the hands and custody of the said garnishees, and the same in their custody had defended, &c. so that the said *C. D.* should appear at the same court, to answer the said *A. B.* in the plea aforesaid; and at the same court, the said *A. B.* by his said attorney, offered himself against the said *C. D.* in the plea aforesaid; and the said *C. D.* at the petition of the said *A. B.* by his said attorney, was solemnly called, and appeared not, but then and there made his *first* default; which said first default, at the same court, was recorded against the said *C. D.* in the plea aforesaid, according to the custom of the said city: And thereupon a further day was given by the court, to the said *C. D.* to appear at the next court, to be holden, &c. to answer the said *A. B.* in the plea aforesaid: At which said next court, holden according to the custom of the said city, on the — day of — aforesaid, the said *A. B.* by his said attorney appeared, and at the same court offered himself against the said *C. D.* in the plea aforesaid, according to the custom of the
said

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said city ; and the said *C. D.* at the petition of the said *A. B.* by the said attorney, was at the same court solemnly called, and did not appear, but made a *second* default ; which said second default was recorded, &c. : And thereupon a further day was given by the court, to the said *C. D.* to appear at the next court, to be holden, &c. to answer the said *A. B.* in the plea aforesaid : At which said next court, holden according to the custom of the said city, on the — day of — the said *A. B.* by his said attorney appeared, and at the same court offered himself against the said *C. D.* in the plea aforesaid : And the said *C. D.* at the petition of the said *A. B.* by his said attorney, was at the same court solemnly called, and did not appear, but made a *third* default ; which said third default was recorded, &c. : And thereupon a further day was given by the court, to the said *C. D.* to appear at the next court, to be holden before the said mayor and aldermen, in the chamber of the *Guildhall* of the same city, to answer the said *A. B.* in the plea aforesaid. At which said next court, holden according to the custom of the said city, on the — day of — aforesaid, the said *A. B.* by his said attorney appeared, and at the same court offered himself against the said *C. D.* in the plea aforesaid ; and the said *C. D.* at the petition of the said *A. B.* by his said attorney, was at the same court solemnly called, and did not appear, but made a *fourth* default ; which said fourth default was recorded, &c. : And thereupon, after the said four defaults recorded by the said court against the said *C. D.* in the plea aforesaid, according to the custom of the said city, at the petition of the said *A. B.* made to the said court by his said attorney, it was commanded by the said court, to the said serjeant at mace, that he, according to the custom of the said city, should warn and make known to the said *I. K.* and *L. M.* to appear at a court to be holden before the said mayor and aldermen, in the chamber of the *Guildhall* of the city of *London*, according to the custom of the said city, on the — day of — to shew cause, if any they had, why the said *A. B.* should not have execution against them, for the said sum of — *l.* in monies numbered, so attached in their hands as aforesaid, and that the said serjeant at mace should return and certify to the same court, what they should do by virtue of the said precept ; and the same day was given by the said court, to the said *A. B.* to be there,

there, &c.: At which said court, holden before the said mayor and aldermen, in the chamber of the *Guildhall* of the said city, according to the custom of the said city, on the — day of — aforesaid, the said *A. B.* by his said attorney appeared: And the said serjeant at mace returned and certified to the said court, that he, by virtue of the said precept to him directed, had warned and made known to the said garnishees to appear at the same court to shew cause as aforesaid, as by the said precept he was required: Whereupon, at the petition of the said *A. B.* made to the said court, by his said attorney, the said garnishees were then and there solemnly demanded, and appeared, and appointed in their stead *G. H.* their attorney, and by their attorney pleaded to the said attachment, and issue was joined between the said parties: And so the said bill original, and attachment thereupon made, remain in the same court undetermined.

And this is the tenor of the bill original and attachment aforesaid, whereof mention is made in the said annexed writ, as the same remains before us; which, with all things touching the same, we certify, as by the said writ is required.

George the Third (&c.) To the mayor, aldermen and sheriffs of the city of *Bristol*, and to the mayor and constables of the staple of the same city, and also to the bailiffs of the mayor and commonalty of the same city of *Bristol* of their court of *Tolsey*, and to the bailiffs of the said mayor and commonalty of the same city of their court of *Piepowder*, and every of them, greeting: We being willing, for certain causes, to be certified, as well of all complaints in our court before you, or any of you, levied or affirmed against *C. D.* at the suit of *A. B.* as of all attachments upon those complaints, or any of them, made in the hands of *E. F.* and *G. H.* or either of them; command you, and every of you, that you send the said complaints and attachments, and every of them, with all things touching the same, before us at *Westminster*, on — next after —, (or in C. P. before our justices at *Westminster*, on —,) as fully and entirely as they remain before you, or any of you, together with this writ, that we may further cause to be done thereupon, what of right we shall see fit to be done.

Witness

(§ 5.)
Certiorari to the
mayor, &c. of
Bristol, to re-
move all
complaints and at-
tachments.

CHAP. Witness *Edward* Lord *Ellenborough*, (or in C. P. Sir *Vicary*
XVII. *Gibbs* knight,) at *Westminster*, (&c.)

(§ 6.)
The like, to re-
move a plaint
from the Com-
mon Pleas at
Lancaster.

George the Third, (&c.) To our chancellor of our county-
palatine of *Lancaster*, or to his deputy there, greeting: We
being willing, for certain causes, to be certified of a certain
plaint, in our court of common-bench for our said county-
palatine, against *C. D.* at the suit of *A. B.* of a plea of tres-
pass; do command you, that by our writ under the seal of our
said county-palatine to be duly made, and directed to our
prothonotary of our said court of common-bench for our said
county-palatine of *Lancaster*, you command the same pro-
thonotary, that he certify to you without delay the plaint
aforesaid, with all things touching the same, as fully and en-
tirely as it remains before him, by whatsoever names the said
C. D. and *A. B.* may be called in the same, that you may
certify the same to us at *Westminster*, on — next after —
(or in C. P. to our justices at *Westminster*, on —) together
with this writ, that we may further cause to be done there-
upon, what of right we shall see fit to be done. Witness
Edward Lord *Ellenborough*, (or in C. P. Sir *Vicary Gibbs*
knight,) at *Westminster*, (&c.)

(§ 7.)
The like, to re-
move the re-
cord of a judg-
ment from an
inferior court,
on stat. 19
Geo. III. c. 70.
§ 4.

George the Third, (&c.) To the judges of our court of re-
cord of the honour of *Peverel*, in the county of *Nottingham*,
and additional limits of the same, greeting: We being willing,
for certain causes, to be certified of the proceedings in a
certain cause, lately depending in our said court, between
A. B. and *C. D.* of a plea of trespass on the case, (or as the
plea is,) and of the judgment thereupon obtained in our said
court, as it is said; do command you, that you send to us,
distinctly and openly, under your seal, the record of the
proceedings and judgment aforesaid, with all things touch-
ing the same, which are in your custody, as it is said, by
whatsoever names the parties may be called therein, and this
writ, so that we may have them before us, on — whereso-
ever we shall then be in *England*, (or in C. P. before our
justices at *Westminster*, on —), and further cause to be done
thereupon, what of right, and according to the form of the
statute in such case made and provided, shall be meet to be
done. Witness, (&c.)

In the King's Bench.

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(§ 8.)

Affidavit for
certiorari, on
stat. 33 Geo.
III. c. 68 to
remove the
transcript of a
judgment, from
the Common
Pleas at Lan-
caster.

In relation to a cause instituted in his majesty's court of Common Pleas for the county-palatine of *Lancaster*, wherein *A. B.* is the plaintiff, and *C. D.* is the defendant.

G. H. of, (&c.) — gentleman, attorney for the defendant, in the above cause, and *I. K.* of the same place, officer to the sheriff of the said county, severally make oath and say : And first, this deponent *G. H.* for himself saith, that judgment as in case of a nonsuit, for not proceeding to trial in pursuance of a peremptory undertaking in the above-named cause, was moved for at the *March* assizes for *Lancashire*, in the year 18—, and a rule absolute of the said court of Common Pleas at *Lancaster* was thereupon obtained for such judgment, at the same assizes ; and that this deponent afterwards caused the defendant's costs to be taxed, and final judgment to be signed for the said defendant ; and also caused a writ of *capias ad satisfaciendum* to be sued out of the said court of Common Pleas at *Lancaster*, against the said plaintiff, returnable before his majesty's justices at *Lancaster*, on the first day of the general sessions of assizes, there to be holden, and which were holden at *Lancaster*, in the month of — now last past, for the costs upon such judgment ; which writ was duly delivered to the sheriff of the said county of *Lancaster*, to be executed. And the said other deponent *I. K.* for himself saith, that in the month of — now last past, he received a warrant of the sheriff of the said county-palatine of *Lancaster*, on the said writ of *capias ad satisfaciendum*, to him this deponent directed, commanding him to take the said plaintiff ; and this deponent in consequence made diligent search and enquiry after the said plaintiff, but he was not to be found within the jurisdiction of the said court of Common Pleas at *Lancaster* : And this deponent verily believes, that the said plaintiff hath ever since resided out of the county of *Lancaster*, and out of the jurisdiction of the said court of Common Pleas at *Lancaster* ; and that he hath no goods or effects in the said county-palatine. And the said other deponent *G. H.* for himself saith, that he is informed and verily believes, that the said plaintiff resides at or near — in the county of —, out of the jurisdiction of the said court of

Common

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Common Pleas at *Lancaster*; and the said judgment is still in force, and the costs due to the said defendant thereon unpaid and undischarged.

Sworn, (&c.)

(§ 9.)
Rule for certiorari thereon.

— (or next after) — in the — year of king
George the Third.

B. } Upon reading the affidavit of *G. H.* gentleman and
v. } another, it is ordered, that a writ of *certiorari* issue,
D. } to remove this cause, with a transcript of the record of the judgment obtained in the court of Common Pleas at *Lancaster*, into this court, pursuant to the statute of the 33d of his present majesty, chap. 68, and that the same be received and filed by the clerk of the treasury of this court.

Upon the motion of Mr. —

By the Court.

(§ 10.)
Certiorari to remove the transcript of a judgment, &c. from the Common Pleas at *Lancaster*.

George the Third, (&c.) To our chancellor of our county-palatine of *Lancaster*, or to his deputy there, greeting: We being willing, for certain causes, to be certified of the proceedings in a certain cause, lately depending in our court before our justices at *Lancaster*, by a writ, between *A. B.* and *C. D.* of a plea of trespass upon the case, (or as the plea is,) and of the judgment thereupon obtained in our said court, as it is said; do command you, that by our writ under the seal of our said county-palatine to be duly made, and directed to our said justices at *Lancaster* aforesaid, you cause to be given in charge to the said justices, that they send to you, under their seals, into the chancery of our said county-palatine, the transcript of the proceedings in the said cause, and of the record of the said judgment therein, with all things touching the same, which are in their custody, as it is said, by whatsoever names the parties may be called therein, on — next ensuing, and our writ thereupon made and directed as aforesaid; and that you send to us, distinctly and openly, under the seal of our said county-palatine, the transcript of the proceedings and judgment aforesaid, with all things touching the same, and this writ, so that we may have them before us, on, (&c.) wheresoever we shall then be in *England*, (or in C. P. before our justices at *Westminster*, on —) and further do

do thereupon, what of right and according to the form of the statute in such case made and provided, shall be meet to be done. Witness *Edward Lord Ellenborough*, (or in C. P. *Sir Vicary Gibbs* knight,) at *Westminster*, (&c.)

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George the Third, (&c.) To our justices of the court of Great Sessions, for the county of *Glamorgan*, greeting: We being willing, for certain causes, to be certified of the proceedings in a certain cause, lately depending in our said court, before our justices aforesaid, between *A. B.* and *C. D.* of a plea of trespass on the case, (or as the plea is,) and of the judgment thereupon obtained in our said court, as it is said; do command you, that you send to us, distinctly and openly, under your seal, a transcript of the proceedings in the said cause, and of the record of the said judgment therein, with all things touching the same, &c. (as in the last.)

(§ 11.)
The like, from
the Great Ses-
sions in *Wales*.

Glamorganshire, (to wit). I *G. H.* his majesty's chief justice of the court of Great Sessions for the said county, by virtue of the writ of our lord the king to me directed and delivered, and hereto annexed, and the transcript of the proceedings of the record of the judgment, whereof in the same writ mention is made, with all things touching the same, to our said lord the king before the king himself, in his court of King's Bench at *Westminster*, distinctly and openly, under my seal, as by the said writ is commanded. In witness whereof, I the said chief justice have put my seal to these presents, at, (&c.) on, (&c.)

(§ 12.)
Return thereto,
of proceedings
in the Great
Sessions, and
judgment as in
case of a non-
suit.

Glamorganshire. Pleas held at *Cardiff*, in and for the said county, on — the — day of — in the — year of the reign of our sovereign lord *George the Third*, by the grace of God, of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—, before *G. H.* and *I. K.* (&c.)

L. M. Sheriff.

Glamorganshire, (to wit). *C. D.* late of, (&c.) was attached to answer *A. B.* in a plea of trespass on the case, to the damage of the said *A. B.* of — l.; and the pledges to prosecute are *John Doe* and *Richard Roe* and thereupon the said *A. B.* by *E. F.* his attorney complains, (here copy the declaration

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claration and plea): And the said *A. B.* doth so likewise. Therefore it is commanded to the sheriff of the said county, that he cause to come at *Cardiff* in the said county, on the first day of the next Great Sessions, before the justices, &c. twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.

At which day, before the said justices at *Cardiff* in the said county, come the parties aforesaid, by their said attorneys; and the sheriff returned the writ of *habeas facias* to him directed, in all things rightly served; of which jurors none came, &c. Therefore it is commanded to the sheriff of the said county, that he cause to come, at *Cardiff* in the said county, on the first day of the next Great Sessions, before the justices, &c. twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.

At which day, before the said justices at *Cardiff* in the said county, comes the said *C. D.* by his said attorney; and the said *A. B.* although solemnly called, comes not: And it appearing to the court, that the said *A. B.* hath neglected to bring the issue above joined on to be tried, according to the course and practice of the said court; therefore, according to the form of the statute in such case made and provided, it is considered, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c.: And it is further considered by the court here, that the said *C. D.* do recover against the said *A. B.* — *l.* for his costs and charges by him laid out about his defence in this behalf, by the court now here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

(§ 13)
Habeas corpus,
to remove a
cause from an
inferior court.

George the Third, (&c.) To — greeting: We command you, that you have the body, &c. (as before, p. 158. the habeas corpus to remove the cause being the same as to remove the body: The reason is, that the removal of the cause is merely a consequence of the removal of the body into the court above.)

We *I. K.* and *L. M.* Esquires, sheriffs of the city of *London*, certify to the right honourable *Edward Lord Ellenborough*, (or in C. P. to Sir *Vicary Gibbs* knight,) his majesty's chief-justice, named in the writ annexed to this schedule, that before the coming of the said writ to us, to wit, on the — day of — in the — year of the reign, (&c.) *C. D.* the defendant named in the said writ, was taken at *London* aforesaid, and detained in the prison of our said lord the king, under our custody, by virtue of a certain plaint levied in the court of our said lord the king, held on the day and year aforesaid, before me the said *I. K.* one of the said sheriffs of the said city, against the said *C. D.* by the name of, (&c.) at the suit of *A. B.* in a plea of debt upon demand for — *l.* whereupon the said parties have pleaded to an issue, to be tried by the country; and so it remains undetermined. And this is the cause of taking and detaining the said *C. D.* whose body we have ready.

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(§ 14.)

Return thereto, that the defendant was taken, &c. on a plaint levied in the sheriff's court of *London*.

The answer, (&c.)

To the marshal of our prison of the *Marshalsea*, before us.

(§ 15.)

Direction of certiorari and habeas corpus, to the marshal, or warden.

To the warden of our prison of the *Fleet*.

To the mayor, aldermen and sheriffs of the city of *London*.

Mayor's court of *London*.

To the sheriffs of the city of *London*.

Sheriff's court of *London*.

To the steward of the dean and chapter of the collegiate church of *St. Peter Westminster*, of the court of their liberty or precincts of *St. Martin's le Grand* in *London*, and to the constables there.

Liberty of *St Martin's le Grand*.

To the sheriff of —.

County court.

To the judges of our palace court of *Westminster*, and to each of them.

Palace court.

To the steward of the court of the liberty of the mayor and commonalty and citizens of the city of *London*, of their town and borough of *Southwark*, in the county of *Surrey*, and also to the bailiff of the same liberty.

Borough court of *Southwark*.

To

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Whitechapel
court.

To the steward of our court of record, within the manors of *Stepney* and *Hackney*, in the county of *Middlesex*, the hamlets and liberties of the same, and also to the prothonotary of the same court.

Abingdon.

To the mayor, bailiffs and burgesses of the borough of *Abingdon*, in the county of *Berks*, and to every of them.

Bath.

To the mayor, recorder and aldermen, justices of our city of *Bath*, in the county of *Somerset*, and to every of them.

Bedford.

To the mayor, aldermen, burgesses and recorder of the town of *Bedford*, in the county of *Bedford*.

Beverley.

To the mayor, aldermen and burgesses of the town of *Beverley*, in the county of *York*.

Boston.

To the mayor and burgesses of the borough of *Boston*, in the county of *Lincoln*.

Bristol.

To the mayor, aldermen and sheriffs of the city of *Bristol*, and to the mayor and constables of the staple of the same city, and also to the bailiffs of the mayor and commonalty of the same city of *Bristol*, of their court of *Tolsey*, and to the bailiffs of the said mayor and commonalty of the same city of their court of *Piepowder*, and to every of them.

Buckingham.

To the bailiff and burgesses of the town of *Buckingham*, in the county of *Buckingham*.

Bury St. Edmund.

To the mayor, recorder and burgesses of the borough of *Bury St. Edmund*, in the county of *Suffolk*.

Caermarthen
Great Sessions.

To our justices of the *Great Sessions*, of our county of *Caermarthen*.

Caermarthen
borough.

To the mayor or recorder, and town-clerk of the borough-court of *Caermarthen*.

Cambridge.

To the mayor and bailiffs of the town of *Cambridge*.

To the steward of the liberty of —, by divine providence archbishop of *Canterbury*, in the court of his palate, within the city of *Canterbury*. CHAP. XVII.
Canterbury.

To the mayor, aldermen, bailiffs and citizens of our city of *Carlisle*, in the county of *Cumberland*.

To the mayor, bailiffs and commonalty of our city of *Coventry*, in the county of *Coventry*.

To the mayor and burgesses of our borough of *Derby*, in the county of *Derby*.

To our justices of the bishop of *Ely*, assigned to hold pleas within the isle of *Ely*, and to the steward of the same bishop, within the liberties of the isle aforesaid, and to every of them. Or thus:—

To our trusty and well-beloved — our chief-justice assigned to hold the sessions of pleas, within the liberty or royal franchise of the honourable and right reverend father in God — by divine permission lord bishop of *Ely*, within the isle of *Ely*, in the county of *Cambridge*, and to — chief-bailiff of the said bishop, within the liberties of the said isle, and to each of them.

To the mayor and bailiffs of our city of *Exeter*, in the county of *Devon*, and to the bailiffs, citizens and provosts of the same city.

To the mayor, aldermen and sheriffs of our city of *Gloucester*, in the county of *Gloucester*.

To the mayor, aldermen and citizens of our city of *Hereford*, in the county of *Hereford*.

To the mayor and capital burgesses of the borough of *Hertford*, in the county of *Hertford*, and also to the steward of our court of record there.

To the mayor, aldermen and burgesses of the borough of *Huntingdon*, in the county of *Huntingdon*.

- VII.** To the mayor and recorder of our town or borough of *King's Lynn*, in the county of *Norfolk*.
- XVII.** To the mayor and sheriffs of our town and county of the town of *Kingston upon Hull*, in the county of *York*.
- XVIII.** To the bailiffs and steward of our court of our town of *Kingston upon Thames*; and in the absence of the said steward, to the bailiffs and recorder of the same town, or any two of them.
- XIX.** To the bailiffs and capital burgesses of *Leominster*.
- XX.** To the mayor, sheriffs and citizens of our city of *Lincoln*.
- XXI.** To the bailiffs, burgesses and citizens of our city of *Litchfield*.
- XXII.** To the mayor and bailiffs of our borough of *Liverpool*, in the county of *Lancaster*.
- XXIII.** To the recorder, bailiffs and capital burgesses of our borough of *Ludlow*, in the county of *Salop*.
- XXIV.** To the mayor and bailiffs of our town of *Monmouth*.
- XXV.** To the mayor, aldermen and burgesses of our borough of *Newbury*, in the county of *Berks*.
- XXVI.** To the mayor and bailiffs of our town and borough of *Northampton*, in the county of *Northampton*.
- XXVII.** To the mayor, aldermen and sheriffs of our county of the city of *Norwich*.
- XXVIII.** To the mayor and burgesses of our town of *Nottingham*.
- XXIX.** To the mayor and bailiffs of our city of *Oxford*, in the county of *Oxford*.

To the mayor, aldermen and burgesses of our borough of *Portsmouth*, in the county of *Southampton*. CHAP.
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Portsmouth.

To the mayor and bailiffs of our town of *Southampton*. Southampton.

To the bailiffs of the reverend father in Christ — by di- vine permission, lord bishop of *Winchester*, of his liberty of *Taunton* and *Taunton Dean*, in the county of *Somerset*. Taunton.

To the mayor and recorder of our borough of *Thetford*, in the county of *Norfolk*. Thetford.

To the steward or bailiff of our court of pleas, granted to the reverend father in Christ —, lord bishop of *Bath* and *Wells*, held at the *Guildhall* within the city and borough of *Wells*, in the county of *Somerset*. Wells.

To the mayor of the town of *New Woodstock*, in the county of *Oxford*. Woodstock.

To the mayor, recorder and aldermen of our city of *Worcester*. Worcester.

To the mayor, aldermen and sheriffs of our city of *York*. York.

— term, in the — year of the reign of king *George the Third*. (§ 16.)
Bail-piece on
habeas corpus, in
L. & M. B.

— (to wit). *C. D.* is delivered to bail, on a *habeas corpus*, to

E. F. of —

and

G. H. of —

at the suit of the plaintiff in the plaint.

Oath for — *L.*

J. K. attorney.

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(§ 17.)

The like, in
C. P.

— term, in the — year of the reign of king
George the Third.

— (to wit.) *Habeas corpus* for *C. D.*, at the suit of *A. B.*
in a plea of trespass on the case upon promises, to the da-
mage of the said *A. B.* of — (or — the plea is). Oath
for —.

The bail are, *E. F.* of —

G. H. of —

Each of them for —

I. K. defendant's attorney.

(§ 18.)
Recognizance
of bail on a
habeas corpus, in
K. B.

You (naming the bail,) do jointly and severally undertake,
that if the defendant be condemned, at the suit of the plain-
tiff (or plaintiffs) in the plaint, he shall satisfy the costs and
condemnation, or render himself to the custody of the mar-
shal of the marshalsea of the court of King's Bench, or you
will do it for him.

(§ 19.)
The like, in
C. P.

You (naming the bail,) are bail for *C. D.* at the suit of *A. B.* ;
and severally acknowledge to owe to the said *A. B.* the sum
of — *l.* upon condition that the defendant do appear to an
original writ, to be filed in the court of Common Pleas, within
two terms; and if he be condemned in the action, he shall pay
the condemnation money; and if he fail so to do, you (the bail)
severally undertake to do it for him.

(§ 20.)
Notice of bail
being put in on
habeas corpus, in
K. B. or C. P.

In the King's Bench,
(or Common Pleas.)

A. B. plaintiff,
and

C. D. defendant.

Take notice, that special bail was this day put in upon the
habeas corpus issued in this cause, before the honourable Mr.
Justice — at his chambers in *Serjeant's-Inn, Chancery-lane,*
London; and the names of the bail are — of —, and —
of —. Dated, (&c.)

Your's, &c.

G. H. defendant's attorney,

To Mr. *E. F.* attorney for the plaintiff.

Take

Take notice, that the bail already put in for the defendant in this cause, upon the writ of *habeas corpus*, and of whom you have had notice, will on — next, justify themselves in open court at *Westminster-hall*, in the county of *Middlesex*, as good and sufficient bail for the said defendant. Dated, (&c.)

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(§ 21.)

Notice of justification of bail.

Your's, &c.

G. H. defendant's attorney.

To Mr. E. F. attorney for the plaintiff.

London, (to wit). It was commanded to the sheriffs of *London*, that immediately after the receipt of the writ of the lord the king to them in that behalf directed, they should have the body of *C. D.* detained in the prison of the said lord the king, under their custody, as it was said, under safe and secure conduct, together with the day and cause of his being taken and detained, by whatsoever name he might be called in the same, before Sir *Vicary Gibbs* knight, chief-justice of the said lord the king of the Bench, at his chambers, situate in *Serjeant's Inn, Chancery-lane, London*, to do and receive all and singular those things which the said chief-justice should then and there consider of him in that behalf; and that they should have there that writ. Afterwards, to wit, on the — day of — in the year of our Lord 18—, the said *C. D.* came in his proper person, under the custody of the said sheriffs, by virtue of the said writ; and the said sheriffs, namely *I. K.* and *L. M.* Esquires, sheriffs of *London* aforesaid, now here return, that the execution of the said writ appeareth in a certain schedule annexed to that writ; the tenor of which said schedule follows in these words, that is to say: We *I. K.* and *L. M.* Esquires, sheriffs of the city of *London* aforesaid, certify, &c. (as before, p. 191.) Afterwards, to wit, on the said — day of — in the year of our Lord 18— aforesaid, before the said Sir *Vicary Gibbs*, chief-justice of the court here, at his chambers situate in *Serjeant's Inn, Chancery-lane, London* aforesaid, came *E. F.* of — and *G. H.* of —, in their proper persons, and acknowledged themselves, and each of them did acknowledge himself, to owe to the said *A. B.* the sum of —*l.*; which said sum of —*l.*

(§ 22.)

Entry of recognition of bail, taken before the chief-justice, on a *habeas corpus cum causa*, in C. P.

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—l. the said *E. F.* and *G. H.* for themselves and their heirs, and each of them for himself and his heirs, did consent and grant, should be made of their and each of their lands and chattels, and levied to the use of the said *A. B.* upon condition that the said *C. D.* should appear in the same court here, in his proper person, or by his attorney in that behalf, to an original writ, to be sued and prosecuted out of his majesty's high court of Chancery, returnable before his said majesty's justices of the Bench at *Westminster*, and filed in the said court here, by and at the suit of the said *A. B.* against the said *C. D.* in the plea aforesaid, before the end of the next term after the return of the said writ; and also upon this condition, that, if judgment should happen to be given in the same court here, for the said *A. B.* against the said *C. D.* in the said plea, after the appearance of the said *C. D.* to the original writ aforesaid, then the said *C. D.* should satisfy all such damages (or in debt, the debt aforesaid, and all such damages) as should be adjudged to the said *A. B.* against the said *C. D.* in the said court here, in the plea aforesaid, or should render his body on that occasion to his majesty's prison of the *Fleet*; which said recognizance the said chief-justice afterwards, to wit, on the — day of — in this same term, with his proper hand delivered here into court, to be enrolled of record, &c.

(§ 23.)
Procedent, on
habeas corpus.

George the Third, (&c.) To — greeting: Although we lately by our writ commanded you, that you should have the body of *C. D.* detained in our prison under your custody, as it was said, under safe and secure conduct, together with the day and cause of his being taken and detained, by whatsoever name the said *C. D.* might be called in the same, before our right trusty and well beloved *Edward* Lord *Ellenborough*, our chief-justice assigned to hold pleas in our court before us, (or in C. P. before the right honourable Sir *Vicary* *Gibbs* knight, our chief-justice of the Bench; or in the Exchequer, before the honourable Sir *Alexander Thomson* knight, chief-baron of our Exchequer,) at his chambers, or house, situate (&c.) immediately after the receipt of that writ, to do and receive all and singular those things which our said chief-justice

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justice (or chief-baron) should then and there consider of him in that behalf; yet we being now moved with certain causes, in our court before us, (or in the Exchequer, “before the barons of our said Exchequer” or in C. P. thus: “yet for certain causes in this behalf specially moving our justices of the Bench aforesaid, we”) command you, and every of you, that in all complaints and suits against the said *C. D.* at the suit of *A. B.* in our court before you, or any of you, levied or affirmed, or before you or any of you now depending undetermined, you proceed with what speed you can, in such manner, according to the law and custom of *England*, as you shall see proper; our said writ to you thereupon before directed, to the contrary thereof in any wise notwithstanding. Witness *Edward Lord Ellenborough*, (or in C. P. *Sir Vicary Gibbs* knight, or in the Exchequer, *Sir Alexander Thomson* knight,) at *Westminster*, (&c.)

George the Third, (&c.) To the mayor, aldermen and sheriffs of *London*, greeting: Whereas we being willing, for certain causes, to be certified as well of a certain bill-original in our court before you, or some of you, levied or affirmed against *C. D.* late of — at the suit of *A. B.* of a plea of debt on demand for — *l.* as of a certain attachment thereupon made of — *l.* in the hands and custody of *E. F.* being attached and defended, lately by our writ commanded you, and every of you, that you should send the bill-original and attachment aforesaid, with all things touching the same, as fully and entirely as they remained in our court before you, or any of you, by whatsoever names the parties might be called therein, before us at *Westminster*, on — next after —, (or in C. P. before our justices of the Bench at *Westminster*, on —, or in the Exchequer, before the barons of our said Exchequer, on — next coming,) together with that writ, that we might further cause to be done thereupon, what of right we should see fit to be done: Nevertheless for certain causes now specially moving us, in our court before us, (or in C. P. specially moving our justices of the Bench aforesaid, or in the Exchequer, the barons of our said Exchequer,) we command you, and every of you, that as well in the bill-original aforesaid, in our said court before you, or

(§ 24.)
The like, on a
certiorari, to the
mayor's court
of *London*

some

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some of you, levied or affirmed against the said *C. D.* at the suit of the said *A. B.* in the plea aforesaid, as in the attachment aforesaid thereupon made, of the said — *L.* in the hands and custody of the said *E. F.* with what speed you can, you proceed in such manner, according to the law and custom of *England*, as you shall see proper: our writ of *certiorari* aforesaid, to you thereupon before directed, to the contrary thereof in any wise notwithstanding. Witness *Edward Lord Ellenborough*, (or in C. P. *Sir Vicary Gibbs* knight, or in the Exchequer, *Sir Alexander Thomson* knight,) at *Westminster*, (&c.).

CHAP. XVIII.

Of NOTICES of MOTION.

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

A. B. plaintiff,
and
C. D. defendant.

(§ 1.)
Notice of motion, to shew cause, why the writ should not be quashed, and to answer the matters of the affidavit.

TAKE notice, that this honourable court will be moved to-morrow, (or on — next.) or so soon after as counsel can be heard, for a rule to shew cause, why the writ of *latitat* (or *capias*, or *quo minus*, &c.) should not be quashed, and why the plaintiff should not pay the costs of this application; and that the plaintiff may answer the matters of the affidavit.
Dated, (&c.)

Your's, &c.

G. H. defendant's attorney, (agent,
or clerk in court.)

To Mr. E. F. plaintiff's attorney, (&c.)

In the King's Bench, (&c.)

A. B. plaintiff,
and
C. D. defendant.

(§ 2.)
The like, to set aside the bail-bond, and proceedings there-

Take notice, that this honourable court will be moved, (&c.) for a rule to shew cause, why the bail-bond assigned in this cause, and the proceedings thereon, should not be set aside with costs, to be taxed by the master, (in the King's Bench or Exchequer; or in the Common Pleas, by one of the prothonotaries), and in the mean-time all proceedings be stayed.
Dated, (&c.)

Your's, &c.

G. H. defendant's attorney, (&c.)

To Mr. E. F. plaintiff's attorney, (&c.)

In the King's Bench, (&c.)

A. B. plaintiff,
and
C. D. defendant.

(§ 3.)
The like, for leave to file common bail.

Take notice, that this honourable court will be moved on —, or so soon after as counsel can be heard, for a rule to shew

CHAP. XVIII. shew cause, why the defendant should not be permitted to file common bail (or in the Common Pleas, to enter a common appearance) in this action, and in the mean-time all proceedings be stayed. Dated, (&c.) •

(§ 4.)
The like, to set
aside proceed-
ings for irregu-
larity.

In the King's Bench, (&c.)

A. B. plaintiff,
and
C. D. defendant.

Take notice, that this honourable court will be moved, (&c.) (as before), for a rule to shew cause, why all the proceedings in this cause should not be set aside for irregularity, with costs, to be taxed by the master, (in the King's Bench or Exchequer, or in the Common Pleas, by one of the prothonotaries,) and in the mean-time all further proceedings be stayed. Dated, (&c.)

(§ 5.)
The like, to
stay proceed-
ings, till secu-
rity be given
for costs.

In the King's Bench, (&c.)

A. B. plaintiff,
and
C. D. defendant.

Take notice, that this honourable court will be moved, (&c.) for a rule to shew cause, why all the proceedings in this cause should not be stayed, until security be given for the payment of costs. Dated, (&c.)

(§ 6.)
The like, for
the Master to
compute prin-
cipal and inter-
est, on a bond.

In the King's Bench, (&c.)

A. B. plaintiff,
and
C. D. defendant.

Take notice, that this honourable court will be moved, (&c.) for a rule to shew cause, why it should not be referred to the master, (in the King's Bench or Exchequer, or in the Common Pleas, to one of the prothonotaries), to compute the principal and interest due upon the bond in question; and why upon payment thereof, together with the costs to be taxed by him, the said bond should not be delivered up to the defendant to be cancelled. Dated, (&c.)

(§ 7.)
The like, to set
aside interlocu-
tory judgment,
&c. for irregu-
larity.

In the King's Bench, (&c.)

A. B. plaintiff,
and
C. D. defendant.

Take notice, that this honourable court will be moved, (&c.) for a rule to shew cause, why the interlocutory judgment signed in

in this cause, and (if a writ of inquiry has been executed,) the writ of inquiry executed thereon, should not be set aside for irregularity, with costs to be taxed by the master, (in the King's Bench or Exchequer, or in the Common Pleas, by one of the prothonotaries); and (if there has been any misconduct on the part of the plaintiff,) why the plaintiff should not answer the matters of the affidavit, and in the mean-time all proceedings be stayed. Dated, (&c.)

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XVIII.

Take notice, that this honourable court will be moved, (&c.) for a rule to shew cause, why the judgment signed in this cause, and the execution issued and executed thereon, should not be set aside for irregularity, with costs to be taxed by the master, (in the King's Bench or Exchequer, or in the Common Pleas, by one of the prothonotaries); and why the sum of ———^{l.} levied and paid into the hands of the sheriff of ——— should not be restored to the defendant, and why the said sheriff should not retain the same in his hands; until the further order of this court, and in the mean-time all further proceedings be stayed. Dated, (&c.)

(§ 8.)
The like, to set aside judgment and execution for irregularity, and that the money levied be restored.

Take notice, that this honourable court will be moved, (&c.) for a rule to shew cause, why the judgment in this cause, and the execution executed thereon, should not be set aside for irregularity, with costs to be taxed by the master, (in the King's Bench or Exchequer, or in the Common Pleas, by one of the prothonotaries); and why the money paid into your hands should not be restored to the defendant, and that in the mean-time you retain the same, until the further order of this court. Dated, (&c.)

(§ 9.)
Notice to the sheriff, to retain money levied.

CHAP. XIX.

There are no forms referred to in this Chapter.

CHAP. XX.

Of COMPROMISING, and COMPOUNDING the ACTION.

(§ 1.)
Summons to
stay proceed-
ings, on pay-
ment of debt
and costs, in
K. B. or C. P.

LET the plaintiff's attorney or agent attend me at my chambers in *Serjeant's-Inn*, at — of the clock in — to shew cause why, upon payment of —*l.* the debt for which this action is brought, together with costs to be taxed, all further proceedings in this cause should not be stayed.

Dated the — day of — 18—.

(§ 2.)
Order there-
upon.

Upon hearing the attornies or agents on both sides, I do order, that upon payment of —*l.* the debt due from the defendant to the plaintiff, for which this action is brought, together with costs to be taxed and paid, all further proceedings in this cause be stayed.

Dated the — day of — 18—.

(§ 3.)
Warrant of at-
torney, to con-
fess judgment.

To *E. F. G. H.* and *J. K.* gentlemen, attornies of his majesty's court of King's Bench (or Common Pleas) at *Westminster*, jointly and severally, or to any other attorney of the same court; (or in the Exchequer, "To *E. F. &c.* (naming the four attornies of the court,) attornies of his majesty's court of Exchequer at *Westminster*, jointly and severally.")

THESE are to desire and authorize you, the attornies above-named, or any one of you, or any other attorney of the court of King's Bench (or Common Pleas) aforesaid, to appear for me *C. D.* of — in the said court, as of this present — term, or any other subsequent term, and then and there to receive a declaration for me, in an action of *debt* for —*l.* for money borrowed, (or "on a bond or obligation made and entered into by — the said *C. D.* to *A. B.* in the penal sum of —*l.*") at the suit of the said *A. B.* his executors or administrators, and thereupon to confess the same action, or else to suffer a judgment by *nil dicit* or otherwise

wise, to pass against me in the same action, and to be there-
 upon forthwith entered up against me of record of the said
 court, for the said sum of —*l.* besides costs of suit: And
 I the said *C. D.* do hereby further authorize and empower
 you the said attornies, or any one of you, after the said judg-
 ment shall be entered up as aforesaid, for me and in my
 name, and as my act and deed, to sign seal and execute a
 good and sufficient release in the law to the said *A. B.* his
 heirs, executors and administrators, of all and all manner of
 error and errors, writ and writs of error, and all benefit and
 advantage thereof, and all misprisions of error and errors, de-
 fects and imperfections whatsoever, had, made, committed,
 done or suffered, in about touching or concerning the afore-
 said judgment, or in about touching or concerning any writ,
 warrant, process, declaration, plea, entry or other proceed-
 ings whatsoever, of or any way concerning the same; and
 for what you the said attornies, or any one of you, shall do
 or cause to be done in the premises, or any of them, this
 shall be to you and every of you a sufficient warrant and au-
 thority. In witness whereof, I have hereto set my hand and
 seal, the — day of — in the — year of the reign of
 our sovereign lord *George* the Third, by the grace of God,
 of the united kingdom of *Great Britain* and *Ireland* king,
 defender of the faith, and in the year of our Lord 18—.

Sealed and delivered, being first duly } *C. D.*
 stamped, in the presence of }
L. M.

A. B. } *Memorandum*, that the within warrant of attorney is
 v. } given for securing the payment, from the within-
C. D. } named *C. D.* to the within-named *A. B.* of the sum of
 —*l.* and interest, on the days and in manner following, (or
 if on bond, “according to the condition of the within men-
 tioned bond,”) that is to say, the sum of —*l.* part thereof, to-
 gether with interest for the same, on the — day of —
 18—, and the further sum —*l.* residue thereof, together
 with interest for the same, on the — day of — 18—: And
 it is agreed by the parties, that no action, execution or
 other process or proceedings shall be commenced, sued out or
 prosecuted against the said *C. D.* his heirs, executors, ad-
 ministrators, lands, goods and chattels, upon the judgment to
 be

(§ 4.)
 Defeazance
 thereon.

CHAP.
XX.

be entered up in pursuance of the within warrant, until default shall happen to be made in payment thereof. As witness our hands, the day and year within written.

Witness,

L. M.

A. B.

L. M.

(§ 5.)
Affidavit to en-
ter up judg-
ment, after a
year.

In the King's Bench,

(Common Pleas, or

Exchequer of Pleas.)

A. B. plaintiff,

and

C. D. defendant.

A. B. of — the above-named plaintiff, and *L. M.* of — severally make oath and say; and first this deponent *A. B.* for himself saith, that the above-named defendant being justly indebted to this deponent in the sum of — *l.* for goods sold and delivered by this deponent to the said defendant (or as the case may be), did, in order to secure unto this deponent the payment thereof, on or about the — day of — 18—, (or if the warrant of attorney be to enter up judgment on a bond, “that the above-named defendant being justly indebted to this deponent, in the sum of — *l.* did by his bond or obligation, bearing date, (&c.) become bound to him this deponent, in the penal sum of — *l.* conditioned for the payment of the said sum of — *l.* and interest for the same, after the rate of — *l.* per cent. per annum, at a certain day therein mentioned and now past; and for better securing the payment of the said sum of — *l.* and interest, the said *C. D.* did on the same day and year”) execute and deliver unto this deponent, a warrant of attorney, bearing date the same day and year aforesaid, thereby authorizing certain attornies therein named, or any other attorney of this court, to appear for him the said *C. D.* in the same court, as of the then — term, or any other subsequent term, and then and there to receive a declaration for him, in an action of *debt* for — *l.* for money borrowed, (or “upon the said bond or obligation,” or otherwise, according to the warrant of attorney,) at the suit of this deponent, and thereupon to confess the same action, or else to suffer a judgment by *nil dicit* or otherwise, to pass against him in the same action, and to be thereupon forthwith entered up against him of record of this court, for the sum of — *l.* besides costs of suit: And this deponent further saith, that the said sum of — *l.* is still wholly due and owing from the said *C. D.* to him this deponent, (or, upon a bond, that there is justly due and owing from the said defendant to him this deponent,

ponent, for principal money and interest upon the said bond or obligation, by the condition thereof, the sum of ——*l.*) and that he verily believes the said defendant is living, he this deponent having seen and conversed with him, on the —— day of this instant ——. And this deponent *L. M.* for himself saith, that he was present, and did see the said warrant of attorney executed by the said defendant, and that the name *C. D.* set and subscribed at the foot thereof, is of the proper hand-writing of the said defendant; and that he the said defendant did sign, seal, and as his act and deed deliver the same, in the presence of this deponent; and that the name *L. M.* set and subscribed as a witness to the execution thereof, is of the proper hand-writing of him this deponent.

Sworn, (&c.)

A. B.
L. M.

In the court of King's Bench, (&c.)

— (to wit.) *E. F.* is retained to enter up judgment on a warrant of attorney to acknowledge judgment, dated on the — day of — 18—, at the suit of *A. B.* against *C. D.*

E. F. attorney.[If by an agent, add, by *G. H.* his agent.]

Entered, or filed of record, this }
— day of — in the — year of } — Officer's name.
the reign of king *George* the Third.

In the King's Bench, (&c.)

A. B. who &c. plaintiff,
and
C. D. defendant.(& 6.)
Affidavit for
leave to com-
pound a penal
action.

A. B. of — the above-named plaintiff, maketh oath and saith, that this action is brought for the recovery of certain penalties to the amount of ——*l.* alledged to have been incurred by the above-named defendant, upon and by virtue of an act of parliament, made and passed in the — year of the reign of, (&c.) intituled, (&c.) and this deponent hath declared in the said action against the defendant, who has pleaded thereto the general issue of *nil debet*: And this deponent further saith, that it hath been agreed between this deponent and the said defendant, to apply to this honourable court, for leave

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XX.

leave to compound the said action, upon the defendant's paying the sum of —£. to our lord the now king, and —£. to this deponent, together with the costs of this suit, and of the present application, to be taxed by the proper officer (or otherwise, according to the agreement of the parties.) And this deponent further saith, that the above are the real and only terms upon which this action is meant to be compounded; and that he this deponent hath not, nor hath nor have any other person or persons for his use, received any sum of money whatsoever, for compounding the said action, nor doth he this deponent intend, nor is nor are any other person or persons by his order or appointment, or for his use, or for the use of any other person or persons to his knowledge, or with his privity and consent, at any time hereafter to have or receive for compounding the same, more than the said sum of —£. and the costs to be taxed as aforesaid.

A. B.

Sworn, (&c.)

CHAP. XXI.

Of JUDGMENTS by CONFESSION, and DEFAULT: and of
the WRIT of ENQUIRY of DAMAGES; and PRO-
CEEDINGS on the Statute 3 & 4 W. III. Chap. 11.
§ 8.

In the King's Bench,
(Commissary, or
Exchequer of Pleas)

A. B. plaintiff,
and
C. D. defendant.

(§ 1)
Confession of
the act on, in
assumpsit.

I CONFESS this action, and that the plaintiff hath sustained
damages to the amount of —l (the damages laid in the
declaration,) besides his costs and charges, to be taxed by the
master, (in the King's Bench or Exchequer, or by one of the
prothonotaries in the Common Pleas), and in case I shall
make default in payment of the sum of —l. (the real debt,)
being the debt in this action, together with the said costs, on
the — day of — next, the plaintiff shall be at liberty to
enter up judgment for the said sum of —l (the sum con-
fessed,) and to sue out execution thereon, for the said sum of
—l (the real debt,) and also for the costs of entering up
such judgment, and of suing out execution thereon, officer's
fees, sheriff's poundage, costs of levying, and all other inci-
dental expences. And I do hereby undertake, not to bring
any writ of error, nor file any bill in equity, nor do any other
matter or thing whatsoever, to delay the said plaintiff from
entering up his judgment, or suing out execution thereon, as
aforesaid. Dated this — day of — 18—

Witness, E F

C. D

I confess the debt in this cause, and that the plaintiff hath
sustained damages to the amount of 1s. besides his costs and
charges to be taxed by the master, &c. (as above)

(§ 2)
The libt, in
debt

I do hereby agree to withdraw the plea (or demurre) by me
pleaded (or put in) in this cause; and do confess this action,
or the debt therein, &c. (as before)

(§ 3)
The libt, relation
verification

P

In

CHAP. XXI. In the court of King's Bench, (&c.)

(§ 4.)

Memorandum of
warrant, to enter
up judgment on a
cognovit actionem.

— (to wit.) *E. F.* is retained to enter up judgment on a *cognovit actionem*, dated on the — day of — 18—, at the suit of *A. B.* &c. (as before, p. 207.)

(§ 5.)

Judgment by
cognovit actionem et damna,
in *assumpsit* by
bill, of the same
term with the
declaration, in
K. B.

As yet of — term, (the term of which the judgment is signed,) in the — year of the reign of king *George the Third*. Witness *Edward Lord Ellenborough*.

Law & Markham.

— (to wit.) *A. B.* puts in his place *E. F.* his attorney, against *C. D.* of a plea of trespass on the case upon promises.

— (to wit.) The said *C. D.* puts in his place *G. H.* his attorney, at the suit of the said *A. B.* in the plea aforesaid.

— (to wit.) Be it remembered, that on — next after — in this same term, before our lord the king at *Westminster*, comes *A. B.* by *E. F.* his attorney, and brings into the court of our said lord the king, before the king himself, now here, his certain bill against *C. D.* being in the custody of the marshal of the marshalsea of our said lord the king, before the king himself, of a plea of trespass on the case upon promises; and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard Roe*; which said bill follows in these words, that is to say: — to wit. *A. B.* complains of *C. D.* being in the custody, &c. (here copy the declaration to the end, omitting the pledges, and proceed on a new line as follows:)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and says that he cannot deny the action of the said *A. B.* nor but that he the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath above thereof complained against him; nor but that the said *A. B.* hath sustained damages, on occasion of the not performing of the said several promises and undertakings in the said declaration mentioned, to —/— as by the said declaration is above supposed: And hereupon the said *A. B.* prays judgment, and his damages so acknowledged, together with his costs and charges by him about his suit in
this

this behalf expended, to be adjudged to him, &c.: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, to ———, in form aforesaid acknowledged, and ——— for his said costs and charges, by the court of our said lord the king now here adjudged to the said *A. B.* ——— which said damages costs and charges in ——— and the said *C. D.* in mercy, &c.

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I document
signed the —
day of —
10—

Mercy.

As yet of ——— term, (&c.)
(Entry of warrants of attorney, as in the last.)

5 6)
1 1 , of a
di 1 term,
1 1 1 1 1 1
an n k L

—— (to wit.) *C. D.* remembered, that in ——— term last past, before our said lord the king at Westminster, came *A. B.* by *E. F.* his attorney, and brought into the court of our said lord the king, before the king himself, then there, his certain bill against *C. D.* being in the custody of the marshal of the marshalsea of our said lord the king, before the king himself, of a plea of trespass on the case upon promises, and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard Roe*, which said bill follows in these words, that is to say ——— to wit. *A. B.* complains of *C. D.* &c. (Here copy the declaration to the end, omitting the pledges, and proceed on a new line as follows.)

And now at this day, that is to say, on ——— next, after ——— in this same term, until which day the said *C. D.* had leave to impart to the said bill, and then to answer the same, &c. before our said lord the king at Westminster, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by *G. H.* his attorney; and the said *C. D.* defends the wrong and injury, when, &c. and says that he cannot deny the action, &c. (as in the last)

As yet of ——— term, (&c.)

(Entry of warrants of attorney, as in the last but one)

()
The like 1 1
on 1 1 1 1
K L

—— (to wit.) *C. D.* was attached to answer, *A. B.* &c.
(Here copy the declaration *verbatim*, and proceed on a new line as follows.)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and says that he cannot deny the action, &c. (as in the last but one, to the end.)

CHAP. XXI.

(§ 8.)
The like, in
C. P.

In the Common Pleas, the warrants of attorney are not entered on the judgment-roll: In other respects, the entry of the judgment by *cognovit actionem* in that court, is the same as in the King's Bench by *original*.

(§ 9.)
Judgment by
cognovit actionem in assumption, against an executor or administrator, in K. B. or C. P.

Judgment
signed, (&c.)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and says that he cannot deny the action of the said *A. B.* nor but that the said *E. F.* in his life-time did undertake and promise, in manner and form as the said *A. B.* hath above in that behalf alledged; nor but that the said *A. B.* hath sustained damages, &c. (as in p. 210. to the judgment, which is as follows:) Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* executor (or administrator) as aforesaid, his damages aforesaid to — *l.* in form aforesaid acknowledged, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to — *l.* to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* as executor (or administrator) as aforesaid to be administered, if he hath so-much thereof in his hands to be administered, and if he hath not so-much thereof in his hands to be administered, then — *l.* parcel of the damages aforesaid, being for the costs and charges aforesaid, to be levied of the proper goods and chattels of the said *C. D.*: and the said *C. D.* in mercy, &c.

Mercy.

(§ 10.)
Judgment of
assets in futuro,
on a plea of
plene administravit in assumption, in
K. B. or C. P.

(To the end of the plea, and then as follows:) And hereupon, inasmuch as the said *C. D.* does not deny the action of the said *A. B.* nor but that the said *E. F.* in his life-time did undertake and promise, in manner and form as the said *A. B.* hath above in that behalf alledged; and inasmuch as the said *A. B.* cannot deny but that the said *C. D.* hath not any goods or chattels, which were of the said *E. F.* at the time of his death, in his hands to be administered, in manner and form as the said *C. D.* hath above in his said plea in that behalf alledged; the said *A. B.* prays judgment, and his damages by him sustained, on occasion of the not performing of the said several promises and undertakings in the said declaration mentioned, to be adjudged to him; to be levied of the goods and chattels which were of the said *E. F.* at the time

of

of his death, and which after final judgment in this respect, CHAP. XXI.
 shall come to the hands of the said *C. D.* to be administered :
 Therefore it is considered, that the said *A. B.* do recover
 against the said *C. D.* his damages by him sustained on occa-
 sion of the premises aforesaid, to be levied in form afore-
 said : But because it is unknown, &c. (award of inquiry and
 return) as in a judgment by *trial* in assumpsit, in *K. B.* for
 which *vide post*, p. 210. making no mention of costs, and final
 judgment as follows : Therefore it is considered, that the said
A. B. do recover against the said *C. D.* his damages aforesaid,
 by the inquisition above found, to be levied of the
 goods and chattels which were of the said *E. F.* at the time of
 his death, and which shall hereafter come to the hands of the
 said *C. D.* to be administered : Judgment
 signed, (&c.)

(To the end of the plea, and then as follows :)

And hereupon the said *A. B.* inasmuch as the said *C. D.*
 doth not deny the action of the said *A. B.* nor but that the
 said *E. F.* in his life-time did undertake and promise, in man-
 ner and form as the said *A. B.* hath above in that behalf al-
 leged; and inasmuch as the said *A. B.* cannot deny the se-
 veral matters above pleaded by the said *C. D.* but admits the
 same to be true; prays judgment, and his damages by him
 sustained on occasion of the not performing of the said several
 promises and undertakings in the said declaration mentioned,
 to be adjudged to him; to be levied of the goods and chattels
 which were of the said *E. F.* at the time of his death, and
 which, after satisfying the monies due and owing to the said
L. M. and *N. O.* on the said judgments in the said last plea
 respectively mentioned; shall hereafter come to the hands of
 the said *C. D.* as executor as aforesaid to be administered :
 Therefore it is considered, that the said *A. B.* do recover
 against the said *C. D.* his damages by him sustained on oc-
 casion of the premises aforesaid, to be levied in form afore-
 said : But because it is unknown, &c. (award of inquiry and
 return as in the last, final judgment as follows :) There-
 fore it is considered, that the said *A. B.* do recover against
 the said *C. D.* his damages aforesaid, by the said inquisition
 above found, and also — *l.* for his said costs and charges,
 by the court of our said lord the king now here adjudged of
 increase to the said *A. B.* and with his assent; which said da-
 mages

(§ 11.)
 The like, after
 satisfying judg-
 ment debts.

Judgment
 signed, (&c.)

CHAP. XXI. mages costs and charges in the whole amount to —*l.* to be levied of the goods and chattels which were of the said *E. F.* deceased at the time of his death, and which, after satisfying the monies due and owing to the said *L. M.* and *N. O.* on the said judgments in the said last plea respectively mentioned, shall hereafter come to the hands of the said *C. D.* as executor as aforesaid, to be administered: and the said *C. D.* in mercy, &c.

Mercy.

(§ 12.)

The like of assets acknowledged in part, and for the residue of assets in future, on a plea of *plene administravit*, in *assumpsit*.

(To the end of the plea, and then as follows:)

And hereupon the said *A. B.* inasmuch as the said *C. D.* does not deny the action of the said *A. B.* nor but that the said *E. F.* in his life-time did undertake, &c. (as in the last,) and inasmuch as the said *A. B.* cannot deny but that the said *C. D.* hath not any goods or chattels which were of the said *E. F.* at the time of his death, in his hands to be administered, except the said goods and chattels to the value of —*l.* as aforesaid, prays judgment, and his damages by him sustained on occasion of the not performing of the said several promises and undertakings in the said declaration mentioned, to be adjudged to him; to be levied, as to —*l.* part thereof, of the said goods and chattels so remaining in the hands of the said *C. D.* unadministered as aforesaid, and as to the residue thereof, to be levied of other goods and chattels which were of the said *E. F.* at the time of his death, and which, after final judgment in this respect, shall come to the hands of the said *C. D.* to be administered: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages by him sustained on occasion of the premises, to be levied in form aforesaid: But because it is unknown, &c. (award of inquiry and return as in the two last, final judgment as follows:) Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the said damages, by the inquisition aforesaid above found, to be levied, as to the said —*l.* part thereof, of the goods and chattels so remaining in the hands of the said *C. D.* unadministered as aforesaid, and as to the residue thereof, to be levied of other goods and chattels, which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered, &c.

Judgment
signed, (&c.)

(After

(After the declaration, proceed on a new line as follows.) **CHAP. XXI.**

(§ 13.)

The like, in C. P. against two executors, where one let judgment go by default, and the other pleaded *plene administravit*, on which plaintiff took judgment of assets *quando acciderint*.

And the said *C. D.* in his proper person, comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended, against the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises; And the said *E. F.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and says, &c. (to the end of the plea.) And hereupon the said *A. B.* inasmuch as the said *C. D.* does not deny the action of the said *A. B.* nor but that the said *J. K.* in his life-time did undertake and promise, in manner and form as the said *A. B.* hath above in that behalf alledged; and inasmuch as the said *A. B.* cannot deny but that the said *E. F.* hath fully administered all and singular the goods and chattels, which were of the said *J. K.* deceased at the time of his death, and which have ever come to his hands to be administered; and that he hath not, nor on the day of suing forth the original writ aforesaid, nor at any time since, had any goods or chattels which were of the said *J. K.* deceased, in his hands to be administered, in manner and form as the said *E. F.* hath above in his said plea in that behalf alledged; prays judgment, and his damages by him sustained on occasion of the not performing of the said several promises and undertakings in the said declaration mentioned, to be adjudged to him; to be levied, as against the said *C. D.* of the goods and chattels which were of the said *J. K.* deceased at the time of his death, in the hands of the said *C. D.* as executor as aforesaid to be administered, if he hath so-much thereof in his hands to be administered, and if he hath not so-much thereof in his hands to be administered, then so-much of the damages aforesaid as shall be adjudged to him for his costs and charges by him about his suit in this behalf expended, to be levied of the proper goods and chattels of the said *C. D.* and as against the said *E. F.* to be levied, except as to the costs and charges aforesaid, of the goods and chattels which were of the said *J. K.* at the time of his death, and which after final judgment in this respect, shall come to the hands of the said *E. F.* as executor as aforesaid to be administered: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* and *E. F.* his damages by him sustained

CHAP. XXI. sustained on occasion of the premises aforesaid, to be levied in form aforesaid : But because it is unknown to the justices here, what damages the said *A. B.* hath sustained by means of the premises, the sheriff is commanded, &c. (award of inquiry and return, as in a judgment by *nil dicit* in *assumpsit*, in C. P. for which *vide post*, p. 230.⁴ final judgment as follows :) Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* and *E. F.* his damages aforesaid to — *l.* by the inquisition aforesaid above found, to be levied, as against the said *C. D.* of the goods and chattels which were of the said *J. K.* deceased at the time of his death, in the hands of the said *C. D.* as executor as aforesaid to be administered, and as against the said *E. F.* to be levied of the goods and chattels which were of the said *J. K.* deceased at the time of his death, and which shall hereafter come to the hands of the said *E. F.* as executor as aforesaid to be administered : It is also considered by the justices here, that the said *A. B.* do recover against the said *C. D.* the costs and charges aforesaid, by the said inquisition above found, and also — *l.* for his said costs and charges, by the said justices here adjudged of increase to the said *A. B.* and with his assent, to be levied of the goods and chattels which were of the said *J. K.* deceased at the time of his death, in the hands of the said *C. D.* as executor as aforesaid to be administered, if he hath so much thereof in his hands to be administered, and if he hath not so much thereof in his hands to be administered, to be levied of the proper goods and chattels of the said *C. D.* : and the said *C. D.* in mercy, &c.

Judgment
signed, (&c.)

Mercy.

(§ 14.)
The like,
against the
lands and chat-
tels of a de-
fendant dis-
charged under
an insolvent-
act.

And the said *A. B.* forasmuch as the said *C. D.* doth not deny the said action of the said *A. B.* nor but that he the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath above thereof complained against him, nor but that he the said *A. B.* ought to recover his damages by reason of the non-performance of the said several promises and undertakings in the said declaration mentioned, against the said *C. D.* and forasmuch as the said *A. B.* cannot deny the said several allegations of the said *C. D.* contained in his said plea, but admits the same to be true, he the said *A. B.* prays judgment, and his damages by him sustained on occasion of the not performing of the said several promises and undertakings,

undertakings, to be adjudged to him; to be levied, not on the person of the said *C. D.* but on his lands goods and chattels, according to the form of the statute in such case made and provided: Whereupon it is considered by the court here, that the said *A. B.* ought to recover his damages on occasion of the not performing of the said several promises and undertakings, against the said *C. D.* to be levied in form aforesaid: But because it is unknown, &c. (award of inquiry and return, as directed in p. 213, final judgment as follows:) Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, by the said inquisition above found, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to — *l.* to be levied, not on the person of the said *C. D.* but on his lands goods and chattels, according to the form of the statute in such case made and provided: and the said *C. D.* in mercy, &c.

Judgment signed, (&c.)

Mercy.

(To the end of the issue, and then as follows:)

At which day, before our said lord the king at *Westminster*, come (or, in the Common Pleas and Exchequer, "At which day come here,") as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; and hereupon the said *C. D.* by his said attorney, relinquishing his said plea by him above pleaded, says that he cannot deny the action of the said *A. B.* nor but that he the said *C. D.* did undertake, &c. (as before, p. 210.)

(§ 15.) Judgment by cognovit actionem in assumption, after issue, relictâ vocatione.

As yet of — term, in the — year of the reign of king *George* the Third. Witness *Edward* Lord *Ellenborough*.

(§ 16.) The like, in debt on bond, before plea, of the same term with the declaration, in K. B.

Law & Markham.

— (to wit.) *A. B.* puts in his place *E. F.* his attorney, against *C. D.* of a plea of *debt*.

— (to wit.) The said *C. D.* puts in his place *G. H.* his attorney, at the suit of the said *A. B.* in the plea aforesaid.

— (to wit.) Be it remembered, &c. (memorandum as before, p. 210. describing the action as a *plea of debt*; and after copying the declaration, proceed on a new line as follows:)

And

CHAP. XXI. And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and says that he cannot deny the action of the said *A. B.* nor but that the said writing obligatory is the deed of him the said *C. D.* nor but that he owes to the said *A. B.* the said sum of — *l.* above demanded, in manner and form as the said *A. B.* hath above thereof complained against him : Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and also — *l.* for his damages which he hath sustained, as well on occasion of the detaining the said debt, as for his costs and charges by him about his suit in this behalf expended, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent : and the said *C. D.* in mercy, &c.

Judgment
signed, (&c.)

Mercy.

(§ 17.)
The like, in
C. P.

As yet of — term, (&c.)

— (to wit.) *C. D.* was summoned² to answer *A. B.* &c. (to the end of the declaration, and then on a new line as follows :)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and says that he cannot deny the action, &c. (as in the last.)

(§ 18.)
The like, in the
Exchequer.

Pleas before the Barons of the Exchequer at *Westminster*, among the pleas of the term of —, in the — year of the reign of our sovereign lord *George* the Third, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—.

— (to wit.) *A. B.* a debtor, (&c.) comes before the barons of this Exchequer, &c. (here copy the declaration to the end, adding the pledges, and proceed on a new line as follows :)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and prays the hearing of the bill aforesaid, and it is read to him, &c. ; which being read and heard, the said *C. D.* says, that he cannot deny the action, &c. (as in the last but one, to the judgment, which is as follows) : Therefore it is considered by the barons here, that the said *A. B.* do recover against the said *C. D.* his said debt, &c. (as above.)

Judgment
signed, (&c.)

As

As yet of — term, (&c.) CHAP. XXL.
(§ 19.)

(Entry of warrants of attorney, as before, p. 217. *memorandum* as before, p. 211. describing the action as a *plea of debt*; and after copying the declaration, proceed on a new line as follows:)

The like, as to part, of a different term, with a *remittitur* as to the residue, in K. B.

And now at this day, that is to say, on — next after — in this same term, until which day the said *C. D.* had leave to imparl to the said bill, and then to answer the same, &c. before our said lord the king at *Westminster*, come as well the said *A. B.* as the said *C. D.* by their respective attorneys aforesaid; and the said *C. D.* defends the wrong and injury, when, &c. and says that he cannot deny the action of the said *A. B.* nor but that he the said *C. D.* does owe to the said *A. B.* the sum of —*l.* parcel of the said sum of —*l.* above demanded; and upon this the said *A. B.* freely here in court remits to the said *C. D.* the sum of —*l.* residue of the said sum of —*l.* above demanded, and all damages by him sustained on occasion of the detention of the said last-mentioned sum of money, and prays judgment for the said sum of —*l.* parcel, &c. so acknowledged as aforesaid, together with his costs and charges by him about his suit in this behalf expended, to be adjudged to him, &c. Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the sum of —*l.* parcel, &c. in form aforesaid acknowledged, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent: and the said *C. D.* in mercy, &c. And let the said *C. D.* be acquitted of the said sum of —*l.* residue, &c. and the damages aforesaid, in form aforesaid remitted, &c.

Judgment signed, (&c.)

Mercy.

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and says that he cannot deny the action of the said *A. B.* nor but that the said writing obligatory is the deed of the said *E. F.* nor but that he the said *C. D.* detains from the said *A. B.* the said sum of —*l.* above demanded, in manner and form as the said *A. B.* hath above in that behalf alledged: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* executor (or administrator) as aforesaid, his said debt, and also —*l.* for his damages which he hath sustained, as well

(§ 20.)
The like, against an executor or administrator, in K. B. or C. P.

Judgment signed, (&c.)

on

***CHAP. XXI.** on occasion of the detaining of the said debt, as for his costs and charges by him about his suit in this behalf expended, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* as executor (or administrator) as aforesaid to be administered, if he hath so-much thereof in his hands to be administered, and if he hath not so-much thereof in his hands to be administered, then the said —*l.* for the damages aforesaid, to be levied of the proper goods and chattels of the said *C. D.*: and the said *C. D.* in mercy, &c.

(§ 21.)
Judgment of
assets *in futurum*,
on a plea of
plene administravit, in debt.

(To the end of the plea, and then as follows :) And hereupon the said *A. B.* inasmuch as the said *C. D.* doth not deny the action of the said *A. B.* nor but that the said writing obligatory is the deed of the said *E. F.* nor but that he the said *C. D.* detains from the said *A. B.* the said sum of —*l.* above demanded, in manner and form as the said *A. B.* hath above in that behalf alledged; and inasmuch as the said *A. B.* cannot deny but that the said *C. D.* hath not, nor had any goods or chattels which were of the said *E. F.* at the time of his death, in his hands to be administered, in manner and form as the said *C. D.* hath above in his said plea in that behalf alledged; prays judgment, and his said debt, together with his damages by him sustained on occasion of the detaining thereof, to be adjudged to him; to be levied of the goods and chattels, which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* executor (or administrator) as aforesaid, his said debt, and also —*l.* for his damages which he hath sustained on occasion of the detaining thereof, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered, &c.

Judgment
signed, (&c.)

(§ 22.)
Finality of as-
sets acknow-
ledged in part,
and for the re-

(To the end of the plea, and then as follows :) And hereupon the said *A. B.* inasmuch as the said *C. D.* doth not deny

deny the action of the said *A. B.* nor but that the writing obligatory aforesaid is the deed of the said *E. F.* nor but that the said *C. D.* detains from the said *A. B.* the said sum of —*l.* above demanded, in manner and form as the said *A. B.* hath above in that behalf alledged; and inasmuch as the said *A. B.* cannot deny but that the said *C. D.* hath not any goods and chattels which were of the said *E. F.* at the time of his death, in his hands to be administered, except the said goods and chattels to the value of —*l.* as aforesaid; prays judgment, and his said debt, together with his damages by him sustained on occasion of the detaining thereof, to be adjudged to him; to be levied, as to —*l.* part thereof, of the said goods and chattels so as aforesaid acknowledged to be in the hands of the said *C. D.* to be administered, and as to the residue thereof, to be levied of other goods and chattels which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and also —*l.* for his damages which he hath sustained on occasion of the detaining thereof, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; to be levied, as to the said —*l.* part thereof, of the said goods and chattels so as aforesaid acknowledged to be in the hands of the said *C. D.* to be administered, and as to the residue thereof, to be levied of other goods and chattels, which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered, &c.

CHAP XXI.
*residue of assets
in futuro, on a
plea of plene
administravit
præter, in debt.*

Judgment
signed, (&c.)

And the said *C. D.* and *E. F.* by — their attorney, and the said *G. H.* in his proper person, come and defend the wrong and injury when, &c. and the said *C. D.* says that the said *A. B.* ought not to have or maintain his aforesaid action thereof against him; because he says, that he the said *C. D.* hath fully administered, &c. (stating the plea of *plene administravit præter*): And the said *E. F.* says, that the said *A. B.* ought not to have or maintain his aforesaid action thereof against him; because he says that he the said *E. F.* hath fully administered, &c. (stating the plea of *plene administravit generally* :) And the said *G. H.* says nothing in bar or preclusion

(§ 22.)
The like argument three
executors, where one
pleads *plene administravit*
præter, another
plene administravit
generally, and the third
lets judgment
go by default.

sion

CHAP. XXI. sion of the said action of the said *A. B.* by which the said *A. B.* remains therein undefended against the said *G. H.* And hereupon the said *A. B.* inasmuch as he cannot deny the several matters above pleaded by the said *C. D.* and *E. F.* respectively, but admits the same to be true, prays judgment, and his debt aforesaid, together with his damages by him sustained on occasion of the detaining thereof, to be adjudged to him : Therefore it is considered, that the said *A. B.* do recover against the said *C. D. E. F.* and *G. H.* as executors as aforesaid, his debt aforesaid, and also —*l.* for his damages which he hath sustained on occasion of the detaining thereof, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent ; to be levied, as to the said sum of —*l.* part thereof, of the said goods and chattels so as aforesaid acknowledged to be in the hands of the said *C. D.* as executor as aforesaid to be administered, or of the goods and chattels which were of the said *J. K.* deceased at the time of his death, and which shall hereafter come to the hands of the said *E. F.* as executor as aforesaid to be administered, or which are now in, or shall hereafter come to the hands of the said *G. H.* as executor as aforesaid to be administered ; and as to the residue thereof, to be levied of the goods and chattels which were of the said *J. K.* deceased at the time of his death, and which shall hereafter come to the hands of the said *C. D.* and *E. F.* as executors as aforesaid, or either of them, or which are now in, or shall hereafter come to the hands of the said *G. H.* as executor as aforesaid to be administered : It is also considered by his majesty's court here, that the said *A. B.* do recover against the said *G. H.* executor as aforesaid, the sum of —*l.* for his costs and charges by him about his suit in this behalf expended, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent ; to be levied of the goods and chattels which were of the said *J. K.* deceased at the time of his death, in the hands of the said *G. H.* as executor as aforesaid to be administered, if he hath so-much thereof in his hands to be administered, and if he hath not so-much thereof in his hands to be administered, to be levied of the proper goods and chattels of the said *G. H.* : and the said *G. H.* in mercy, &c.

Judgment
signed, (&c.)

Mercy.

(To

(To the end of the issue, and then as follows:) At which day, before our said lord the king at *Westminster*, come (or, in the Common Pleas and Exchequer, "At which day come here,") as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; and hereupon the said *C. D.* relinquishing his said plea, by him above pleaded, saith that he cannot deny the action of the said *A. B.* nor but that the said writing obligatory is the deed, &c. (as before, p. 218.)

CHAP. XXII:
(§ 24.)
Judgment by
concessit actionem in debt.
sic
lud. scriptus
hinc.

As yet of — term, (&c.) (§ 25.)

(Entry of warrants of attorney, and memorandum, &c. as before, p. 210.)

Judgment by
non sum informatus, in assumpsit by bill,
of the same
term with the
declaration, in
K. B.

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and the said *A. B.* prays that the said *C. D.* may answer his said declaration; whereupon the said attorney of the said *C. D.* says, that he is not informed by the said *C. D.* of any answer to be given for him to the said *A. B.* in the premises, nor doth he say any thing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: But because it is unknown, &c. (awarding the writ of inquiry, as in a judgment by *nil dicit* in K. B. for which *vide post*, p. 229.)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and the same attorney says, that he is not informed by the said *C. D.* of any answer to be given for him to the said *A. B.* in the premises, nor doth he say any thing in bar or preclusion, &c. (as in the last, awarding the writ of inquiry, as in a judgment by *nil dicit* in C. P. for which *vide post*, p. 230.)

(§ 26.)
The last, in
C. P.

(Entry of warrants of attorney, and memorandum, &c. as before, p. 217.)

(§ 27.)
The last, in
debt, K. B.

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and the said *A. B.* prays

CHAP. XXI. prays that the said *C. D.* may answer his said declaration ; whereupon the said attorney of the said *C. D.* says, that he is not informed by the said *C. D.* of any answer to be given for him to the said *A. B.* in the premises, nor doth he say any thing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.* : Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, &c, (as before, p. 218.)

Judgment
signed, (&c.)

(§ 28.)
The like, in
C. P. And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and the same attorney says, that he is not informed by the said *C. D.* of any answer to be given for him to the said *A. B.* in the premises, nor doth he say any thing in bar or preclusion, &c. (as in the last.)

(§ 29.)
The like, in the
Exchequer.

Pleas, &c. (as before, p. 218.)

— (to wit.) *A. B.* a debtor, (&c.) comes before the barons of this Exchequer, &c. (here copy the declaration to the end, adding the pledges, and proceed on a new line as follows :)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and the said *A. B.* prays that the said *C. D.* may answer him in the premises : And hereupon the attorney of the said *C. D.* is told, that he answer for the said *C. D.* to the said *A. B.* in the plea aforesaid ; and the said attorney saith, that he is not informed by the said *C. D.* of any answer to be given for him to the said *A. B.* in the plea aforesaid, and he saith nothing further thereunto ; whereby the said *A. B.* remains undefended against the said *C. D.* : Therefore it is considered by the barons here, that the said *A. B.* do recover against the said *C. D.* his said debt, &c. (as before, p. 218.)

Judgment
signed, (&c.)

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

A. B. plaintiff,
and
C. D. defendant.

CHAP. XXI.

(§ 30.)

Affidavit for the
master in K. B.
or Exchequer,
or prothonota-
ry in C. P. to
compute prin-
cipal and inter-
est on a bill of
exchange.

E. F. of — gentleman, attorney (or agent) for the above-
named plaintiff, maketh oath and saith, that this action is
brought by the plaintiff as payee, (or indorsee,) against the
defendant as acceptor, of a bill of exchange, dated, (&c.) for
the sum of — *l.* drawn by one *G. H.* on the said defendant,
and payable — months after date, to the said plaintiff or
order; (or if by an indorsee, to *J. K.* or order, and by him
the said *J. K.* indorsed to the said plaintiff.) And this de-
ponent further saith, that interlocutory judgment was signed
in this cause, on the — day of this present month of —,
for want of a plea.

Sworn, (&c.)

E. F.

— on (or next after) — in the — year
of king *George* the Third.

(§ 31.)

Rule of court
thereon, in
K. B.

B. } Upon reading the rule made in this cause, on —
v. } next after — in this term, the affidavit of *E. F.* and
D. } no cause being shewn to the contrary; it is ordered,
that it be referred to the master, to see what is due for prin-
cipal and interest on the bill of exchange, (or promissory note,)
on which this action is brought; and also to tax the plaintiff
his costs: And that the said plaintiff be at liberty to sign final
judgment thereon, without executing a writ of inquiry of da-
mages. Upon the motion of Mr. —.

By the Court.

As yet of — term, (&c.)

(§ 32.)

Judgment by
and then in as-
sumpt, on a
bill or note, of
the same term
with the decla-
ration, where
the damages
are assessed by
the court, in
K. B.

(Entry of warrants of attorney, as in p. 228. memorandum as before, p. 210.; and after copying the declaration to the end, omitting the pledges, proceed on a new line as follows:)

And the said *C. D.* in his proper person, comes and defends
the wrong and injury, when, &c. and says nothing in bar or
preclusion of the said action of the said *A. B.* whereby the
said *A. B.* remains therein undefended against the said *C. D.*;
wherefore the said *A. B.* ought to recover against the said
C. D. his damages on occasion of the premises: And here-
upon the said *A. B.* freely here in court remits to the said

CHAP. XXI. *C. D.* all damages sustained by him the said *A. B.* on occasion of the not performing the several promises and undertakings in the — last counts of the said declaration mentioned; and he prays judgment, and his damages by him sustained on occasion of the not performing of the said promise and undertaking in the said first count mentioned, to be adjudged to him, &c. And because it is suggested and proved, and manifestly appears to the court here, that the said *A. B.* hath sustained damages on occasion of the not performing of the said last-mentioned promise and undertaking, to the sum of —*l.* besides his costs and charges by him about his suit in this behalf expended: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, to the said sum of —*l.* and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to —*l.* and the said *C. D.* in mercy, &c. And let the said *C. D.* be acquitted of the damages so remitted as aforesaid, &c.

Judgment
signed, (&c.)

Mercy.

(§ 33.)
The like, after
an imparlance,
and continuance
of the inquiry by *vice-*
comes non misit
breve, in K. B.

Entry of warrants of attorney, as in p. 228. *memorandum* as before, p. 211.; and after copying the declaration to the end, omitting the pledges, proceed on a new line as follows:)

And now at this day, that is to say, on — next after — in this same term, until which day the said *C. D.* had leave to imparl to the said bill, and then to answer the same, &c. before our said lord the King at *Westminster*, come as well the said *A. B.* by his said attorney, as the said *C. D.* in his proper person; and the said *C. D.* defends the wrong and injury, when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: But because it is unknown to the said court of our said lord the king now here, what damages the said *A. B.* hath sustained by reason thereof, the sheriff is commanded, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what damages the said *A. B.* hath sustained, as well by reason of the premises, as for his costs and charges by him about his suit in this behalf expended; and that he send the inquisition
• which

which he shall thereupon take, to our said lord the king at *Westminster*, on — next after —, under his seal, and the seals of those by whose oath he shall take that inquisition, together with the writ of our said lord the king to him in that behalf directed; the same day is given to the said *A. B.* at the same place: At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his said attorney; and the sheriff hath not returned the said writ, nor hath he done any thing thereupon: Therefore, as before, the sheriff is commanded, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire in form aforesaid; and that he send the inquisition which he shall thereupon take, to our said lord the king at *Westminster*, on — next after —, under his seal, and the seals of those by whose oath he shall take that inquisition, together with the writ of our said lord the king to him in that behalf directed; the same day is given to the said *A. B.* at the same place: At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his said attorney; and the sheriff hath not returned the said last-mentioned writ, nor hath he done any thing thereupon: And hereupon the said *A. B.* freely here in court remits, &c. (as in the last.)

— (to wit.) *C. D.* was attached to answer *A. B.* in a plea of trespass on the case, &c. and thereupon the said *A. B.* by — his attorney complains; (here copy the declaration, plea and replication, to the end, and proceed as follows:) And the said *A. B.* prays that the said *C. D.* may rejoin to the said plea of the said *A. B.* by him above pleaded by way of reply, to so-much of the said plea of the said *C. D.* as relates to the said sum of — therein alledged to be due and owing from the said *A. B.* to the said *C. D.*: And hereupon a day is given to the said *C. D.* here, until — aforesaid, that is to say, for the said *C. D.* to rejoin to the said plea of the said *A. B.* by him above pleaded by way of reply as last aforesaid; the same day is given to the said *A. B.* here, &c. At which day, comes here the said *A. B.* by his said attorney; and the said *C. D.* although solemnly demanded on the fourth day, cometh not, but maketh default, nor hath he rejoined to the said plea of the said *A. B.* by him above pleaded by way of reply as last

(§ 34.)
The like, in
C. P. for want
of a rejoinder
as to part, and
on a replication
of and the record
as to the resi-
due, where the
damages are
assessed by the
court.

Q 2

aforesaid;

CHAP. XXI. aforesaid; and the said *C. D.* at the same day, although solemnly demanded in open court, to produce the said record by him above in pleading alledged, cometh not, nor produceth the same, but therein wholly fails and makes default; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages by reason of the premises: But because it is unknown to the justices here, what damages the said *A. B.* hath sustained, &c. (as in p. 230. to the end of the award of the inquiry) At which day, cometh here the said *A. B.* by his said attorney; and the sheriffs have not sent the writ of our said lord the king to them in that behalf directed, nor have they done any thing thereupon: Therefore, as before, the sheriffs are commanded, that by the oath of twelve good and lawful men of their bailiwick, they diligently inquire in form aforesaid; and that the inquisition which they shall thereupon take, they make appear to the justices here, on — under their seal, and the seals of those by whose oath they shall take the said last-mentioned inquisition, together with the writ of our said lord the king to them thereupon directed; the same day is given to the said *A. B.* here, &c. At which day, cometh here the said *A. B.* by his said attorney; and the sheriffs have not sent the writ of our said lord the king to them in that behalf directed, nor have they done any thing thereupon: And hereupon the said *A. B.* freely here in court remits, &c. (as before, p. 225, 6.)

(§ 35.)

Judgment by
writ *ad tria*, in as-
sumpt by bill,
of the same
term with the
declaration,
where damages
are assessed on
a writ of in-
quiry, in K. B.

As yet of — term, (&c.)

— (to wit) *A. B.* puts in his place *E. F.* his attorney, against *C. D.* in a plea of trespass on the case upon promises.

— (to wit.) The said *C. D.* in person, (or if he appeared by attorney; “The said *C. D.* puts in his place *G. H.* his attorney,”) at the suit of the said *A. B.* in the plea aforesaid.

— (to wit.) Be it remembered, &c. (as before, p. 210.)

And the said *C. D.* in his proper person, (or, by *G. H.* his attorney,) comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises:

premises: But because it is unknown to the court of our said CHAP. XXXI
 lord the king now here, what damages the said *A. B.* hath
 sustained by means of the premises; the sheriff is com-
 manded, that by the oath of twelve good and lawful men of
 his bailiwick, he diligently inquire what damages the said
A. B. hath sustained, as well by means of the premises, as
 for his costs and charges by him about his suit in this behalf
 expended; and that he send the inquisition which he shall
 thereupon take, to our said lord the king at *Westminster*, on
 — next after — under his seal, and the seals of those by
 whose oath he shall take that inquisition, together with the
 writ of our said lord the king to him thereupon directed; the
 same day is given to the said *A. B.* at the same place: At
 which day, before our said lord the king at *Westminster*,
 comes the said *A. B.* by his attorney aforesaid; and the sheriff,
 to wit, — Esquire, sheriff of the said county of —, now
 here returns a certain inquisition indented, taken before him
 at — in the county aforesaid, on — the — day of —
 in the — year of the reign of our said lord the now king,
 by the oath of twelve good and lawful men of his bailiwick;
 by which it is found, that the said *A. B.* hath sustained da-
 mages by means of the premises, to — *l.* over and above
 his costs and charges by him about his suit in this behalf ex-
 pended, and for those costs and charges to — *s.* There-
 fore it is considered, that the said *A. B.* do recover against
 the said *C. D.* his damages aforesaid, by the said inquisition
 above found, and also — *l.* for his said costs and charges, by
 the court of our said lord the king now here adjudged of in-
 crease to the said *A. B.* and with his assent; which said da-
 mages costs and charges in the whole amount to — *l.* and the
 said *C. D.* in mercy, &c.

Judgment
 signed, (&c.)

Mercy.

(Entry of warrants of attorney, as in the last, *memorandum* as
 before, p. 211.; and after copying the declaration to the end,
 omitting pledges, proceed on a new line, as follows:)

(§ 56.)
 The like, of a
 different term,
 with an im-
 parlance, in
 K. B.

And now at this day, that is to say, on — next after
 — in this same term, until which day the said *C. D.* had
 leave to imparl to the said bill, and then to answer the same,
 &c. before our said lord the king at *Westminster*, come as
 well the said *A. B.* by his attorney aforesaid, as the said *C. D.*
 in his proper person (or by *G. H.* his attorney); and the said
C. D.

CHAP. XXI. *C. D.* defends the wrong and injury, when, &c. and says nothing in bar or preclusion, &c. (as in the last.)

(§ 37.)
The like, by
original, in
K. B.

(Entry of warrants of attorney, as in the last but one.)

— (to wit.) *C. D.* was attached to answer *A. B.* &c. (here copy the declaration *verbatim*, and proceed on a new line as follows :)

And the said *C. D.* in his proper person (or by *G. H.* his attorney), comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion, &c. (as before, p. 228. making the writ of inquiry returnable on a general return-day).

(§ 38.)
The like, in
C. P.

— (to wit.) *C. D.* was attached to answer *A. B.* of a plea of trespass on the case, &c. ; and thereupon the said *A. B.* by *E. F.* his attorney complains, that whereas, &c. (to the end of the declaration, and then on a new line as follows :)

And the said *C. D.* in his proper person, comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion, &c. (as before, p. 228. awarding the inquiry as follows :) But because it is unknown to the justices here, what damages the said *A. B.* hath sustained on occasion thereof, the sheriff is commanded, that by the oath of twelve good and lawful men of his county, he diligently inquire what damages the said *A. B.* hath sustained, as well on occasion of the premises, as for his costs and charges by him about his suit in this behalf expended ; and that the inquisition which he shall thereupon take, he make appear to the justices here, on — under his seal, and the seals of those by whose oath he shall take the said inquisition, together with the writ of our said lord the king to him thereupon directed ; the same day is given to the said *A. B.* here, &c. At which day, cometh here the said *A. B.* by his said attorney ; and the sheriff, to wit, — sheriff of the said county, now here returns, &c. (as before, p. 229.)

Pleas, &c. (as before, p. 218.)

(§ 39.)
The like, in the
Exchequer,
with continu-
ances by im-
parlance, vice-
comes non nisi
breve, and curia
advisari vult.

— (to wit.) Be it remembered, that heretofore, that is to say, in — term last past, *A. B.* debtor of his present majesty, came before the barons of this Exchequer at Westminster, by *E. F.* his attorney, and brought then here into court his certain bill against *C. D.* of a plea of trespass on the case

case upon promises; the tenor of which said bill follows in these words, to wit: (here copy the declaration and pledges, and proceed, on a new line, as follows:)

And the said *C. D.* in his proper person, comes and defends the wrong and injury, when, &c. and prays the hearing of the bill aforesaid, and it is read to him, &c. which being read and heard, the said *C. D.* saith, that he is not yet advised to answer the said *A. B.* in the premises, and prayeth leave to imparl thereunto, until — (the first general return of term,) next coming, by which day, &c. and it is granted to him by the court; the same day is given to the said *A. B.* here, &c. At which day, come here as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* in his proper person; and the said *A. B.* prayeth that the said *C. D.* may answer him in the premises.* And thereupon the said *C. D.* says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.*; wherefore the said *A. B.* ought to recover his damages against the said *C. D.* by reason of the premises: But because it is not known what damages the said *A. B.* hath sustained by reason of the premises, it is commanded to the sheriff of the said county of —, that he diligently inquire, by the oath of honest and lawful men of his bailiwick, what damages the said *A. B.* hath sustained, as well by the not performing of the several promises and undertakings aforesaid, as for his costs and charges by him laid out about his suit in this behalf; and the inquisition which the said sheriff shall make thereof, he shall make known to the said barons here, on, (&c.) under his seal, and the seals of those by whose oath he shall make that inquisition, together with the writ of our said lord the king to him in that behalf directed; the same day is given to the said *A. B.* here, &c. At which day, came here the said *A. B.* by his attorney aforesaid; and the sheriff did nothing thereupon, nor sent the said writ: Therefore, as before, the sheriff of the said county of — is commanded, that by honest, &c. he diligently inquire in form aforesaid; and make known the inquisition, &c. to the barons here, on — (the return of the inquiry), under his seal, and the seals, &c.; the same day is

* If there be more than one imparlance, say, "And hereupon the said *C. D.* saith, that he is not yet advised to answer the said *A. B.* in the premises, and prayeth further leave to imparl," &c. (as above.)

CHAP. XXI. *Given to the said A. B. here, &c. At which day, comes here the said A. B. by his attorney aforesaid; and the sheriff, to wit, — sheriff of the said county, now here returns a certain inquisition indented, taken before him at — on the — day of — in the — year of the reign of our said lord the king, by the oath of twelve honest and lawful men of his bailiwick, by which it is found, that the said A. B. hath sustained damages by reason of the premises, to the sum of —l. besides his costs and charges by him laid out about his suit in this behalf, and for his costs and charges aforesaid the sum of —l. And because the barons here will advise themselves of and upon the premises aforesaid, before they give judgment therein, a day is given to the said A. B. here, until — (the next return), to hear judgment thereupon, for that the said barons here are not yet advised thereof, &c. At which day, the said A. B. comes here, by his attorney aforesaid; whereupon all and singular the premises being seen, and fully understood by the barons here, and they having had mature deliberation thereupon; it is considered by the said barons here, that the said A. B. do recover against the said C. D. his damages aforesaid, by the said inquisition above found, and also —l. for his said costs and charges, by the said barons here adjudged of increase to the said A. B. and with his assent; which said damages costs and charges in the whole amount to —l.: and the said C. D. in mercy, &c.*

Judgment signed, (&c.)

Mercy.

(§ 40.)
The like, where one of the defendants died after declaration, and before interlocutory judgment, in K. B. or C. P.

And the said C. D. in his proper person, comes and defends the wrong and injury, when, &c. and the said E. F. comes not: And hereupon the said A. B. gives the court of our lord the king now here (or in C. P. the justices here) to understand and be informed, that after the issuing of the original writ in this cause, and after the last continuance of the plea aforesaid, and before this day, to wit, on — the said E. F. died, to wit, at — and the said C. D. there survived him; which the said C. D. doth not deny: And the said C. D. says nothing in bar or preclusion, &c. (as before, p. 228, 9.)

(§ 41.)
The like, and award of inquiry into a county palatine.

And the said C. D. in his proper person, comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion of the said action of the said A. B. whereby the said A. B. remains therein undefended against the said C. D. wherefore

wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises : But because it is unknown to the court of our said lord the king now here, (or in C. P. to the justices here,) what damages the said *A. B.* hath sustained by means of the premises aforesaid ; it is commanded to the chancello^r of the said county-palatine of *Lancaster*, that by the writ of our said lord the king, under the seal of the said county-palatine to be duly made, and directed to the sheriff of the said county-palatine, he command the said sheriff, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what damages the said *A. B.* hath sustained, as well by means of the premises, as for his costs and charges by him about his suit in this behalf expended ; and that the inquisition which the said sheriff shall thereupon take, he make known to the said chancellor, under his seal, and the seals of those by whose oath he shall take that inquisition, together with the names of the persons by whose oath he shall take the same, so that the said chancellor may certify the same to our said lord the king at *Westminster*, on — next after — (or in C. P. to the justices here, on —) together with the name of the said sheriff, and the writ of our said lord the king to the said chancellor in that behalf directed ; the same day is given to the said *A. B.* at the same place : At which day, before our said lord the king at *Westminster*, comes (or in C. P. “ At which day comes here,”) the said *A. B.* by his said attorney ; and the said chancellor now here certifies a certain inquisition indented, taken before the said sheriff, at — in the said county, on the — day of — in the — year of the reign of our said lord the king, by the oath of twelve good and lawful men of the said sheriff’s bailiwick ; by which it is found, &c. (as before, p. 229)

(As before, p. 228, 9. to the end of the sheriff’s return on the writ of inquiry, and then as follows :) And hereupon the said *A. B.* freely here in court remits to the said *C. D.* the sum of —/ parcel of the damages costs and charges aforesaid, by the said inquisition in form aforesaid found ; and prays judgment for the residue of those damages costs and charges, together with his further costs and charges, by him about his suit in

(§ 42.)
The like, with a *restitutio* of part of the damages, after the return of the inquiry.

CHAP. XXI. in this behalf expended; Therefore it is considered, that the
 Judgment
 signed, (&c.) said *A. B.* do recover against the said *C. D.* the sum of —*l.*
 residue of the damages costs and charges aforesaid, by the
 said inquisition above found, and also —*l.* for his further
 costs and charges aforesaid, by the court of our said lord the
 king now here adjudged of increase to the said *A. B.* and
 with his assent; which said residue of the damages costs and
 charges by the said inquisition above found, together with
 the said further costs and charges so adjudged of increase,
 amount in the whole to —*l.* and the said *C. D.* in mercy,
 Mercy. &c. And let the said *C. D.* be acquitted of the said sum of
 —*l.* parcel, &c. so remitted by the said *A. B.* as aforesaid, &c.

(§ 43.) (To the end of the award of the inquiry, and then as fol-
 The like, with
 a suggestion of
 the death of
 one of the
 plaintiffs, at
 the return of
 the inquiry. lows :) At which day, before our said lord the king at *West-*
minster, comes (or in C. P. “At which day comes here,”) the
 said *A. B.* by his attorney aforesaid; and the sheriff, &c. (as
 before, p. 229. to the end of the inquisition;) and the said
E. F. at the same day, being solemnly demanded, comes not :
 And hereupon the said *A. B.* gives the court of our said lord
 the king now here (or in C. P. the justices here) to understand
 and be informed, that since the last continuance of this plea,
 and before this day, to wit, on — the said *E. F.* died, to
 wit, at — and the said *A. B.* there survived him; and be-
 cause this is not denied, therefore let no further proceedings
 be had at the suit of the said *E. F.*; and upon this the said
A. B. prays judgment against the said *C. D.* for the damages
 costs and charges aforesaid : Therefore it is considered, &c.
 (as before, p. 229.)

(§ 44.) And the said *C. D.* in his proper person, comes and de-
 The like, a-
 gainst an exe-
 cutor or admi-
 nistrator. fends the wrong and injury, when, &c. and says nothing in
 Judgment
 signed, (&c.) bar or preclusion, &c. (as before, p. 228, 9. to the final judg-
 ment, which is as follows :) Therefore it is considered, that
 the said *A. B.* do recover against the said *C. D.* executor (or
 administrator) as aforesaid, his damages aforesaid, by the said
 inquisition above found, and also —*l.* for his said costs and
 charges, by the court of our said lord the king now here ad-
 judged of increase to the said *A. B.* and with his assent;
 which said damages costs and charges in the whole amount

to

to — *l.* to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* as executor (or administrator) as aforesaid to be administered, if he hath so much thereof in his hands to be administered, and if he hath not so much thereof in his hands to be administered, then — *l.* parcel of the damages aforesaid, being for the costs and charges aforesaid, to be levied of the proper goods and chattels of the said *C. D.* : and the said *C. D.* in mercy, &c.

Mercy.

And the said *C. D.* says nothing in bar or preclusion of the said action of the said *A. B.* as to the said trespass, in the said close above newly assigned ; whereby the said *A. B.* remains therein undefended against the said *C. D.* ; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises : But because it is unknown to the court of our said lord the king now here, (or in *C. P.* to the justices here,) what damages the said *A. B.* hath sustained, on occasion of the said trespass, in the said close above newly assigned, the sheriff is commanded, (&c.)

(§ 45.)

The like in
trespass, after
a new assign-
ment.

George the Third, by the grace of God, of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith. To the sheriff of — greeting : Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, impleaded *C. D.* being in the custody of the marshal of our marshalsea before us : For that whereas, &c. (here recite the declaration,) to the damage of the said *A. B.* of — *l.* as he said, and thereupon he brought his suit, &c. And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises : But because it is unknown to our said court before us, what damages the said *A. B.* hath sustained by means of the premises aforesaid ; therefore we command you, that by the oath of twelve good and lawful men of your bailiwick, you diligently inquire what damages the said *A. B.* hath sustained, as well by means of the premises aforesaid, as for his costs and charges by him about his suit in this behalf expended ; and

(§ 46.)

Writ of inquiry
by bill, in
K. B.

CHAP. XXI. and that you send to us at *Westminster*, on — next after — the inquisition which you shall thereupon take, under your seal, and the seals of those by whose oath you shall take that inquisition, together with this writ. Witness *Edward Lord Ellenborough*, at *Westminster*, the — day of — in the — year of our reign.

Law & Markham.

(§ 47.)
The like, into
a county-pala-
tine, in K. B.

George the Third, (&c.) To our chancellor of our county-palatine of *Lancaster*, or to his deputy there, greeting :
Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, impleaded *C. D.* being in the custody, &c. (as before :) And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises : But because it is unknown to our said court before us, what damages the said *A. B.* hath sustained, by means of the premises aforesaid ; therefore we command you, that by our writ, under the seal of our said county-palatine to be duly made, and directed to the sheriff of the same county, you command the said sheriff, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what damages the said *A. B.* hath sustained, as well by means of the premises aforesaid, as for his costs and charges by him about his suit in this behalf expended ; and that you send to us at *Westminster*, on — next after — the inquisition which the said sheriff shall thereupon take, under his seal, and the seals of those by whose oath he shall take that inquisition, together with this writ. Witness, (&c.)

(§ 48.)
Writ of in-
quiry by ori-
ginal, in K. B.

George the Third, (&c.) To the sheriff of — greeting :
Whereas *C. D.* was attached (or summoned) to appear in our court before us, to answer *A. B.* of a plea, that whereas, &c. (to the end of the declaration.) And such proceedings were thereupon had, &c. (as in a writ of inquiry by bill, making the return general, *wheresoever*, &c.)

(§ 49.)
The like, in
C. P.

George the Third, (&c.) To the sheriff of — greeting :
Whereas *C. D.* late of — in your county — was attached (or summoned) to be in our court before our justices at *Westminster*,

minster, to answer *A. B.* in a plea, that whereas, &c. (to the end of the declaration.) And it was in such manner proceeded in our said court, that the said *A. B.* ought to recover against the said *C. D.* his damages by occasion of the premises: But because it is unknown, &c. (as before, p. 235.) and the inquisition which you shall thereupon take, make appear to our justices at *Westminster*, in —, under your seal, and the seals of those by whose oath you shall take the said inquisition; and have there the names of those by whose oath you shall take the said inquisition, and this writ. Witness Sir *Vicary Gibbs* knight, at *Westminster*, the — day of — in the — year of our reign

George the Third, (&c.) To the sheriff of — greeting: (§ 50.)
Whereas *C. D.* was attached, by our writ of privilege, issuing out of our court before our justices at *Westminster*, to be in the same court, to answer *A. B.* one of the attornies, (&c.) of a plea, for that whereas, &c. (to the end of the declaration; and then proceed as in common cases, making the writ returnable on a day certain.) Beginning of writ of inquiry, at the suit of an attorney, in C. P.

George the Third, (&c.) To the sheriff of — greeting: (§ 51.)
Whereas *A. B.* by *E. F.* his attorney, came into our court before our justices at *Westminster*, and exhibited to our said justices, his certain bill against *C. D.* gentleman, one of the attornies of our court of the bench, present in our said court in his proper person, of a plea, for that whereas, &c. (to the end of the declaration; and then proceed as in common cases, making the writ returnable on a day certain.) The like, against an attorney, in C. P.

George the Third, (&c.) To the sheriff of — greeting: (§ 52.)
Whereas *A. B.* our debtor, in our court before the barons of our Exchequer at *Westminster*, heretofore, that is to say, in — term last past, (the term of the declaration,) impleaded *C. D.* in a plea of trespass on the case (or as the plea is): For that whereas, &c. (here recite the declaration); whereby he was less able to satisfy us, the debts which he owed us at our said Exchequer, and therefore he brought his suit, &c. And such proceedings were thereupon had in our said court, between the said parties, in the plea aforesaid, that the said *A. B.* Writ of inquiry, in the Exchequer.

CHAP. XXI. *A. B.* ought to recover his damages against the said *C. D.* by reason of the premises: But because it is unknown what damages the said *A. B.* hath sustained by means of the premises, therefore we command you, that you diligently inquire, by the oath of honest and lawful men of your bailiwick, what damages the said *A. B.* hath sustained, as well by means of the premises, as for his costs and charges by him laid out about his suit in this behalf; and the inquisition which you shall thereupon take, make known to the said barons of our said Exchequer at *Westminster*, on — next coming, under your seal, and the seals of those by whose oath you shall take that inquisition; and have you there the names of those by whose oath you shall take that inquisition, and this writ. Witness Sir *Alexander Thomson* knight, (&c.) Rose.

(§ 53.)
The like, to a
county-pala-
tine.

George the Third, (&c.) To our chancellor of our county-palatine of *Lancaster*, (or in *Cheshire*, “To our chamberlain of our county-palatine of *Chester*,”) or his deputy there, (or in *Durham*, “To the reverend father in God *Shute*, by divine providence, lord bishop of *Durham*, or his chancellor there,”) greeting: Whereas *A. B.* our debtor, in our court before the barons of our Exchequer at *Westminster*, heretofore, that is to say, in — term last past, impleaded, &c. (as in the last.) But because it is unknown, what damages the said *A. B.* hath sustained, by means of the premises; therefore we command you, that by our writ, under the seal of our said county-palatine, (or in *Durham*, “under the seal of your bishoprick,”) to be duly made, and to the sheriff of the same county-palatine directed, you command the said sheriff, that by the oath of honest and lawful men of his bailiwick, he diligently inquire what damages the said *A. B.* hath sustained, as well by means of the premises aforesaid, as for his costs and charges by him about his suit in this behalf expended; and the inquisition which the said sheriff shall thereupon take, he make known to you, under his seal, and the seals of those by whose oath he shall take that inquisition, so that you may make the same known to the barons of our said Exchequer at *Westminster* aforesaid, on — next coming; and that the said sheriff have before you, the names of those by whose oath he shall take that inquisition, so that you may have the same names

names before our said barons, at the day and place aforesaid, CHAP. XXI.
together with the said sheriff's name, and this writ. Witness
Sir *Alexander Thomson* knight, (&c.) *Rose.*

the — day of — 18—. (§ 54.)

B. } Upon reading the affidavit of the plaintiff, it is
v. } ordered, that the defendant, upon notice of this rule
D. } to be given to his attorney or agent, shall shew
cause to this court to-morrow peremptorily, before the rising
of the court, otherwise this rule shall be then absolute,
why* the writ of inquiry of damages in this cause, should not
be executed before the sheriff of the county of —, at the
sitting of *Nisi Prius* to be held for that county, after this pre-
sent term, in the presence of the lord chief-justice, or one
other of the justices of this court, by a good jury, to be im-
panelled returned and sworn by the said sheriff. On the
motion of Mr. Serjeant —.

*Rule nisi, for
executing an
inquiry before
the chief-justi-
ce, in C. P.*

* By the Court.

In the Common Pleas.

A. B. plaintiff, (§ 55.)
and * Affidavit of
C. D. defendant. service of
rule.

I. K. clerk to *E. F.* of —, gentleman, maketh oath and
saith, that he this deponent did, about — of the clock of
the day of the date hereof, leave a true copy of the rule here-
unto annexed, at the office of Mr. *L. M.* who acts as attorney
or agent for the above-named defendant, with the clerk of the
said Mr. *L. M.* at —; and did also at the same time leave
therewith, an examined copy of the affidavit made by the
above plaintiff, on his obtaining the said rule, dated the —
day of — 18—. And this deponent further saith, that at
the time of the service of such rule, he this deponent shewed
unto the said clerk of the said Mr. *L. M.* the said original rule
hereunto annexed.

I. K.

Sworn, (&c.)

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

A. B. plaintiff, (§ 56.)
and Notice of in-
C. D. defendant. quiry, in Lon-
don.

Take notice, that a writ of inquiry of damages in this cause
will be executed on — the — day of — instant, (or
next,)

CHAP. XXI. next,) between the hours of *eleven* of the clock in the forenoon, and *one* of the clock in the afternoon of the same day, at the secondaries office, No. 57, *Coleman-street, London*, (and if the plaintiff mean to attend by counsel, add, “when and where counsel will attend on behalf of the said plaintiff.”) Dated this — day of — 18—.

Your's, &c.

E. F. plaintiff's attorney,
(agent, or clerk in court.)

To Mr. *C. D.* the above-named defendant,
(or after appearance, “To Mr. *G. H.*
defendant's attorney,” &c.)

(§ 57.)
The like, in
Middlesex.

If in *Middlesex*, say, “between the hours of *eleven* of the clock in the forenoon, and *one* of the clock in the afternoon of the same day, at the sheriff's office, in *Bedford-street, Bedford-row*, near *Holborn*, in the county of *Middlesex*.”

(§ 58.)
The like, in
the country.

If in the country, “at the house of —, commonly called or known by the name or sign of —, in — street, at — in the county of —.”

(§ 59.)
The like, be-
fore the chief-
justice, or
chief-baron.

If before the chief-justice, (or chief-baron,) “at the sittings after this present — term, to be holden at the *Guild-hall* of the city of *London*, (or in *Middlesex*, at *Westminster Hall*, in the county of *Middlesex*.”)

(§ 60.)
Notice of con-
tinuance.

I do hereby continue the notice of executing the writ of inquiry, given you in this cause, to the — day of — next, when the same will be executed, between the hours of — and —, at —. Dated, (&c.)

Your's, &c.

E. F. plaintiff's attorney, (&c.)

To Mr. *C. D.* the above-
named defendant, (&c.)

(§ 61.)
Notice of coun-
termand.

I do hereby countermand notice of executing the writ of inquiry, given you in this cause. Dated, (&c.)

Your's, &c.

In the King's Bench, (&c.)

B^y against D. CHAP. XXI.

Take notice, that the plaintiff (or defendant) will attend by Notice of writ
tending by
counsel. counsel, on the execution of the writ of inquiry in this cause.

Dated, (&c.)

Your's, &c.

to wit. *Subpœna* to testify, on inquiry, between A. B. (§ 63.)
Precept for
subpœna, on
writ of in-
quiry. plaintiff and C. D. defendant, on the part of the plaintiff (or defendant).

E. F. attorney, (&c.)

— 18 —.

George the Third, (&c.) To G. H. &c (here insert the (§ 64.)
Subpœna. names of the witnesses,) greeting: We command you, and every of you, that laying aside all and singular businesses and excuses whatsoever, you, and every of you, be and appear in your proper persons, before our sheriff (or sheriff-) of —, on — at — (according to the notice of inquiry,) then and there to testify the truth, according to your knowledge, in a certain cause now depending in our court before us, (or in the Common Pleas, “before our justices,” or in the Exchequer, “before the barons of our court of Exchequer,”) at Westminster, between A. B. (or in the Exchequer, “between A. B. our debtor”) plaintiff and C. D. defendant, of a plea of trespass on the case, (or as the action is,) on the part of the plaintiff, (or defendant,) in which cause a writ of inquiry of damages will then and there be executed; and this you, or any of you, shall in no wise omit, under the penalty of 100*l*. Witness, (&c.)

By virtue of a writ of *subpœna* to you directed, and herewith shewn unto you, you are to be and appear before the (§ 65.)
Subpœna-
ticket. sheriff (or sheriffs) of — on — at — (as in the *subpœna*), to testify the truth, according to your knowledge, in a certain cause now depending between A. B. (or in the Exchequer, “between A. B. his majesty's debtor”) plaintiff and C. D. defendant, of a plea of trespass on the case, (or as the action is,) on the part of the plaintiff (or defendant), in which cause a writ of inquiry of damages will then and there be executed; and this you are not to omit, under the penalty of 100*l*. Dated this — day of — in the — year of the reign of our

R

sovereign

CHAP. XXI. sovereign lord *George* the third, (&c.) and in the year of our Lord 18—.

By the Court, (or Barons).

E. F. attorney (or clerk in court) for
the plaintiff, (or defendant.)

(§ 66.)
Inquisition and
return, on writ
of inquiry.

— (to wit.) An inquisition indented, taken at the house of — called or known by the name or sign of — in the said county of —, on the — day of — in the — year of the reign of our sovereign lord *George* the third, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—, before — sheriff of the county aforesaid, by virtue of a writ of our said lord the king, to the said sheriff directed, and to this inquisition annexed, to inquire of certain matters in the said writ specified, by the oath of *E. F.* (&c.) honest and lawful men of the said county, who upon their oath say, that *A. B.* in the said writ named, hath sustained damages to the sum of —*l.* by the means in the said writ mentioned, besides his costs and charges by him about his suit in this behalf laid out, and for his costs and charges aforesaid the sum of —*l.* In witness whereof, as well I the said sheriff, as the said jurors, have set our seals to this inquisition, the day and year above written.

Return.

The execution of this writ appears in the inquisition hereunto annexed.

The answer of — sheriff.

(§ 67.)
Rule for judgment,
in K. B.

B. against *D.*
Rule for judgment on inquiry.

(§ 68.)
Judgment by
nil dicit, in debt
on *mutuus* by
bill, of the
same term with
the declaration,
in K. B.

As yet of — term, (&c.)
(Entry of warrants of attorney, as before, p. 228. making them “in a plea of debt;” memorandum as before, p. 210.; declaration as follows :)
— to wit. *A. B.* complains of *C. D.* being in the custody of the marshal of the marshalsea of our lord the now king, before the king himself, of a plea that he render to the said *A. B.* the sum of —*l.* of lawful money of *Great Britain*,
which

which he owes to and unjustly detains from him; for that CHAP. XXI. whereas the said *C. D.* on the — day of — in the year of our Lord 18— at —, had borrowed of the said *A. B.* the said sum of —*l.* above demanded, to be paid to the said *A. B.* when he the said *C. D.* should be thereto afterwards requested: Yet the said *C. D.* (although often requested, &c.) hath not as yet paid the said sum of —*l.* above demanded, or any part thereof, to the said *A. B.* but to pay the same or any part thereof to the said *A. B.* he the said *C. D.* hath hitherto wholly refused, and still doth refuse; to the damage of the said *A. B.* of 10*l.* and therefore he brings his suit, &c.

And the said *C. D.* in his proper person (or by *G. H.* his attorney), comes and defends the wrong and injury, when; &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.* Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* this said debt, and also —*s* for his damages which he hath sustained, as well on occasion of the detaining the said debt, as for his costs and charges by him about his suit in this behalf expended, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent: and the said *C. D.* in mercy, &c.

Judgment signed, (&c.)
Mercy.

(Entry of warrants of attorney, and memorandum, as directed in the last; declaration as follows:)

(§ 69.)
The like, in debt on bond.

— to wit. *A. B.* complains of *C. D.* being in the custody of the marshal of the marshalsea of our lord the now king, before the king himself, of a plea that he render to the said *A. B.* the sum of —*l.* of good and lawful money of *Great Britain*, which he owes to and unjustly detains from him; for that whereas the said *C. D.* on the — day of — in the year of our Lord 18— at — by his certain writing obligatory, sealed with the seal of the said *C. D.* and now shewn to the court of our said lord the king before the king himself here, the date whereof is the same day and year aforesaid, acknowledged himself to be held and firmly bound unto the said *A. B.* in the said sum of —*l.* above demanded, to be paid to the said *A. B.* when he the said *C. D.* should be thereto afterwards requested: Yet the said *C. D.* (although

CHAP. XXI. often requested, &c.) hath not as yet paid the said sum of —l. above demanded, or any part thereof, to the said *A. B.* but to pay the same or any part thereof to the said *A. B.* he the said *C. D.* hath hitherto wholly refused, and still doth refuse; to the damage of the said *A. B.* of —l. and therefore he brings his suit, &c.

And the said *C. D.* in his proper person, (or by *G. H.* his attorney,) comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion, &c. (as in the last.)

(§ 70.)
The like, in
C. P.

— to wit. *C. D.* was summoned to answer *A. B.* of a plea, &c. (to the end of the declaration; and then, on a new line, as in the last precedent but one.)

Pleas, &c. (as before, p. 213.)

(§ 71.)
The like, in the
Exchequer.

— to wit. *A. B.* a debtor, (&c.) comes before the barons of this Exchequer, &c. (here copy the declaration to the end, adding the pledges, and proceed on a new line as follows):

And the said *C. D.* in his proper person, comes and defends the wrong and injury, when, &c. and prays the hearing of the bill aforesaid, and it is read to him, &c.; which being read and heard, the said *C. D.* says nothing in bar or preclusion, &c. (as before, p. 245.)

(§ 72.)
Suggestion of
breaches in
debt on bond,
after judgment
by default, on
stat. 8 & 9 W.
III. c. 11. § 8.
with award of
inquiry and re-
turn, in K. B.

(After the entry of the judgment, proceed as follows:)

And hereupon the said *A. B.* according to the form of the statute in such case made and provided, says that the said writing-obligatory, whereon the said judgment was so recovered against the said *C. D.* as aforesaid, was made and given by him the said *C. D.* under and subject to a certain condition thereto subscribed, whereby, after reciting, &c. (stating the recital, if any, preceding the condition of the bond,) it was declared, that if, &c. (reciting the condition): And for a breach of the said condition of the said writing-obligatory, the said *A. B.* according to the form of the statute in such case made and provided, suggests, and gives the court here to understand and be informed, that &c. (suggesting the breaches): And hereupon the said *A. B.* prays the writ of our said lord the king, to be directed to the sheriff of —, and to the right honourable *Edward* lord *Ellenborough*, his majesty's chief-justice, assigned to hold pleas in the court of our said lord the king

king before the king himself, (or “to his majesty’s justices assigned to take the assizes in the county of —,”) commanding the said sheriff, that he cause to come before the said chief-justice, (or “justices of assize,”) on — the — day of — next, at — in the county of —, twelve, &c. by whom, &c. and who neither, &c. to inquire of the truth of the said breaches above assigned, and to assess the damages thereby sustained by the said *A. B.*; and also that it be commanded in the said writ, to the said chief-justice, (or “justices of assize,”) that he (or “they”) make a return thereof to the said court of our said lord the king before the king himself at *Westminster*, on — next after —; and it is granted to him, &c. the same day is given to the said *A. B.* at the same place. At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the said chief-justice (or “justices of assize”) now here returns, (or “return,”) a certain inquisition indented, taken before him, (or “them,”) at — in the county of — on — the — day of — in the — year of the reign of our said lord the king, upon the oath of twelve good and lawful men of the same county, by which it is found, &c. (reciting the inquisition) and that the said *A. B.* hath sustained damages, by reason of the aforesaid breach of the said condition of the said writing obligatory, to the sum of —*l.*

(After the entry of the judgment, proceed as follows:)

(§ 73.)

The like, on a mortgage-bond, in K. B.

And hereupon the said *A. B.* according to the form of the statute in such case made and provided, suggests, and gives the court here to understand and be informed, that the said writing-obligatory, &c. (as in the last, to the end of the recital of the condition) And the said *A. B.* further suggests, and gives the court here to understand and be informed, that in and by the said indenture of release, mentioned and referred to in the said condition of the said writing-obligatory, the said *C. D.* for the considerations therein mentioned, did grant, (&c.) To have and to hold, (&c.) but subject nevertheless to a certain *proviso*, condition or agreement, for the redemption of the said premises, (being the *proviso* or condition mentioned and referred to in and by the said condition of the said writing-obligatory in that behalf,) whereby it was provided, &c. (reciting the *proviso*.) And for a breach of the said

CHAP. XXI. said condition of the said writing obligatory, the said *A. B.* according, to the form of the statute in such case made and provided, further suggests, and gives the court here to understand and be informed, that the said *C. D.* did not nor would well and truly pay, or cause to be paid, unto the said *A. B.* the said sum of —*l.* and interest, in the said condition of the said writing-obligatory mentioned, on the said, (&c.) next ensuing the date of the said writing-obligatory, or at any time before or afterwards, according to and in full discharge of the proviso or condition mentioned and referred to in and by the said condition of the said writing-obligatory, and according to the form and effect of the same condition, but wholly refused and neglected so to do, and therein failed and made default; and the said sum of —*l.* together with a certain other sum of money, to wit, (&c.) as and for the interest thereof, is still wholly due and unpaid to the said *A. B.* contrary to the form and effect of the said condition of the said writing obligatory, to wit, at (&c.) aforesaid: And hereupon the said *A. B.* prays the writ, &c. (as in the last).

(§ 74.)
The like, in
C. P.

(To the end of the suggestion of breaches, as before, p. 244. and then as follows:)

And hereupon the said *A. B.* prays the writ of our said lord the king, to be directed to the sheriff of —, and to the right honourable Sir *Vicary Gibbs* knight, his majesty's chief-justice of the Bench here, (or "to his majesty's justices assigned to take the assizes in the county of —,") commanding the said sheriff, that he cause to come before the said chief-justice, (or "justices of assize,") on the — day of — next, at, (&c.) twelve, &c. by whom, &c. and who neither, &c. to inquire of the truth of the said breaches above assigned, and to assess the damages thereby sustained by the said *A. B.*; and also that it be commanded in the said writ, to the said chief-justice, (or "justices of assize,") that he (or "they") make a return thereof to the justices here, on —; and it is granted to him, &c. the same day is given to the said *A. B.* here, &c. At which day, comes here the said *A. B.* by his attorney aforesaid; and the said chief-justice (or "justices of assize") now here returns, &c. (as before, p. 245.)

(After

(After the entry of the judgment, proceed as follows:)

CHAP. XXI.

(§ 75.)

The like, in
debt on annu-
ty-bond, in the
Exchequer;
with entry of
satisfaction.

And hereupon the said *A. B.* according to the form of the statute in such case made and provided, says, &c. (here copy the suggestion to the end, and proceed as follows:) And the said *A. B.* having prayed the writ of our said lord the king, to inquire of the truth of the said breach above assigned, and to assess the damages which the said *A. B.* hath sustained thereby; therefore, according to the form of the statute in such case made and provided, the sheriff of — is commanded, that he cause to come before the right honourable Sir *Alexander Thomson* knight, chief-baron of his majesty's court of Exchequer, (or "before his majesty's justices assigned to take the assizes in the county of —") at — in the county of —, on — the — day of — instant, twelve honest and lawful men of his bailiwick, to inquire diligently on their oath of the truth of the said breach above assigned, and to assess the damages which the said *A. B.* hath sustained thereby; and the said chief-baron is (or "justices of assize are") commanded, that he (or "they") certify the inquisition to be before him (or "them") taken, to his said majesty's court before the barons of his said Exchequer at *Westminster*, on the — day of — instant, together with the names of those by whose oath such inquisition shall be taken, and the writ of our said lord the king to him thereupon directed; the same day is given to the said *A. B.* at the same place: At which day, before the barons of his said majesty's Exchequer at *Westminster* aforesaid, comes the said *A. B.* by his attorney aforesaid; and the said chief-baron (or "justices of assize") now here returns (or "return") a certain inquisition indented, taken before him (or "them"), at — in the county of — aforesaid, on — the — day of — in the — year of the reign of our said lord the king, upon the oath of twelve honest and lawful men of the said county, by which it is found, that after the making of the said writing obligatory, &c. (stating the inquisition), and that the said *A. B.* hath sustained damages, by reason of the aforesaid breach of the said condition of the said writing obligatory, to the sum of —*l.* And hereupon the said *A. B.* by his attorney aforesaid, acknowledgeth himself to be satisfied by the said *C. D.* of the damages aforesaid, in form aforesaid assessed, and also his damages by him sustained on occasion of the detention of the said debt: There-

fore

CHAP. XXI. fore let the said *C. D.* be acquitted of the several damages aforesaid, and all further proceedings for the recovery thereof be stayed, &c.

(§ 76.)
Writ of inquiry
by bill, in debt
on bond, to
assess damages,
on the statute
8 & 9 W. III.
c. 11. § 8. in
K. B.

George the Third, (&c.) To the sheriff of —, and to the right honourable *Edward Lord Ellenborough*, our chief-justice assigned to hold pleas in our court before us, (or, “to our justices assigned to take the assizes in your county,”) greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, impleaded *C. D.* being in the custody of the marshal of our marshalsea before us, of a plea of debt on demand, for — *l.* of good and lawful money of *Great Britain*, upon and by virtue of a certain writing obligatory, in the penal sum of — *l.* bearing date, (&c.) and sealed with the seal of the said *C. D.*: And such proceedings were thereupon had in our said court before us, that it was afterwards considered by the same court, that the said *A. B.* ought to recover against the said *C. D.* his debt aforesaid, together with his damages which he had sustained on occasion of the detention thereof, &c. whereof the said *C. D.* is convicted, as appears to us of record: And thereupon the said *A. B.* according to the form of the statute in such case made and provided, suggested upon the roll whereon the said judgment so recovered against the said *C. D.* as aforesaid is entered, to the effect following, to wit; that the said writing obligatory, whereon the said judgment was so recovered against the said *C. D.* as aforesaid, was made and given by him the said *C. D.* under and subject to a certain condition thereto subscribed, whereby after reciting, &c. (stating the recital, if any, preceding the condition of the bond,) it was declared, that if, &c. (reciting the condition). And the said *A. B.* further suggested on the said roll, whereon the said judgment so recovered against the said *C. D.* was and is so entered as aforesaid, that, &c. (here state the suggestion of breaches, to the prayer of a writ of inquiry, and then proceed as follows;) as we have received information from the said *A. B.* in our court before us. And the said *A. B.* having prayed our writ, to inquire of the truth of the aforesaid breaches of the said condition of the said writing obligatory, above suggested, and to assess the damages which the said *A. B.* hath sustained thereby; therefore, according to the form of the statute in such

such case made and provided, we command you the said **CHAP. XXI.** sheriff, that you summon twelve good and lawful men of your bailiwick, to appear before the said right honourable *Edward Lord Ellenborough*, our said chief-justice assigned to hold pleas in our said court before us, (or “before our said justices of assize,”) on — the — day of — next, at the *Guild-hall* of the city of *London*, (or “at *Westminster-hall*, in the county of *Middlesex*,” or, at the assizes, “at — in the county of —”) to inquire diligently on their oath of the truth of the premises, and to assess the damages which the said *A. B.* hath sustained by reason of the aforesaid breaches; and that you have on that day before our said chief-justice (or justices of assize) this writ: We likewise command our said chief justice (or justices of assize), that he (or they) certify the inquisition before him (or them) taken, to us at *Westminster*, on — next after —, together with the names of those by whose oath such inquisition shall be taken; and that he (or they) also have there then this writ. Witness *Edward Lord Ellenborough*, (&c.)

George the Third, (&c.) To the sheriff of —, and to the right honourable Sir *Picary Gibbs* knight, our chief-justice of the Bench at *Westminster*, (or “to our justices assigned to take the assizes in your county,”) greeting: Whereas *C. D.* was summoned to be in our court before our justices at *Westminster*, to answer *A. B.* of a plea of debt on demand for —*l.* of good and lawful money of *Great Britain*, upon and by virtue of a certain writing obligatory, in the penal sum of —*l.* bearing date, (&c.) and scaled with the seal of the said *C. D.* And such proceedings were thereupon had, in our said court before our justices at *Westminster* aforesaid, that it was afterwards considered by the same court, that the said *A. B.* ought to recover against the said *C. D.* his debt aforesaid, and also —*l.* for his damages by occasion of the detaining the said debt; whereof the said *C. D.* is convicted: And thereupon the said *A. B.* according to the form of the statute in such case made and provided, suggested, (&c.) (as in the last, to the prayer of the writ of inquiry, and then as follows:) And the said *A. B.* having prayed our writ, to inquire of the truth of the aforesaid breaches of the said condition of the said writing obligatory above suggested, and to assess the damages which he the said *A. B.* hath sustained thereby;

§ (§ 77.)
The like, in
C. P.

CHAP. XXI. thereby ; therefore, according to the form of the statute in such case made and provided, we command you the said sheriff, that you summon twelve good and lawful men of your bailiwick, to appear before the said right honourable Sir *Vicary Gibbs* knight, our chief-justice of the Bench at *Westminster*, &c. (as in the last, requiring the chief-justice, or justices of assize, to certify the inquisition, before him, or them, taken, “ to our justices at *Westminster*,” on a general return-day.)

(§ 78.)
The like, in
debt on articles
of agreement,
in K. B.

George the Third, (&c.) To the sheriff of —, and to the right honourable *Edward Lord Ellenborough*, (&c.) greeting : Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, impleaded *C. D.* being in the custody, (&c.) of a plea that he should render to him the said *A. B.* the sum of —*l.* of good and lawful money of *Great Britain*, which he owed to and unjustly detained from him ; for that whereas by certain articles of agreement (or a certain indenture), made on, &c. (reciting the whole of the declaration,) to the damage of the said *A. B.* of —*l.* as he said, and therefore he brought his suit, &c. And such proceedings were thereupon had in our said court before us, that it was afterwards considered by the same court, that the said *A. B.* ought to recover against the said *C. D.* his debt aforesaid, together with his damages which he had sustained on occasion of the detention thereof, &c. whereof the said *C. D.* is convicted, as appears to us of record ; And the said *A. B.* having prayed our writ to inquire of the truth of the aforesaid breaches of covenant above assigned, and to assess the damages which he the said *A. B.* hath sustained thereby ; therefore, according to the form of the statute in such case made and provided, we command you the said sheriff, &c. (as in the last, to the end.)

(§ 79.)
The like, another way.

George the Third, (&c.) To the sheriff of —, and to the right honourable *Edward Lord Ellenborough*, (&c.) greeting : Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, impleaded *C. D.* being in the custody, (&c.) of a plea of debt on demand for —*l.* upon and by virtue of certain articles of agreement, (or “ a certain indenture,” made on, (&c.) between, (&c.) whereby, (&c.) (reciting so much of the articles, or indenture, as is necessary for assigning the breach ;) and the said *A. B.* declared in the said plea,

plea, that, &c. (reciting the averments previous to the assign-
ment of the breach :) And the said *A. B.* for assigning a
breach therein, according to the form of the statute in such
case made and provided, said, that, &c. (assigning the breach :)
And such proceedings were thereupon had, &c. (as in the last.)

— (to wit.) An inquisition indented, taken before me the
right honourable *Edward Lord Ellenborough*, his majesty's
chief-justice assigned to hold pleas in the court of the lord
the king before the king himself, (or “before us — and
— his majesty's justices assigned to take the assizes in the
county of —”) on — the — day of — in the —
year of the reign of our sovereign lord *George* the third, by
the grace of God of the united Kingdom of *Great Britain* and
Ireland king, defender of the faith, and in the year of
our Lord 18—, at — in the county of —, by virtue of
his majesty's writ directed to the sheriff of the said county,
and to me the said chief-justice, (or “to us the said justices
of assize,”) and to this inquisition annexed, by the oath of
E. F. (&c.) twelve good and lawful men of the county afore-
said, who being sworn and charged, upon their oath say, that,
&c. (here set out the finding of the jury, upon the breach as-
signed) ; and they further say upon their oath, that the said
A. B. hath sustained damages, by the aforesaid breach of the
said condition of the said writing obligatory, besides his costs
and charges by him about his suit in this behalf expended, to
—/—. In witness whereof I the said chief-justice (or “we
the said justices of assize”) have hereunto set my hand and
seal, (or “our hands and seals,”) the day and year, and at the
place above-mentioned.

The execution of this writ appears in the inquisition here-
unto annexed.

The answer of — the chief-justice (or “of
— and — the justices of assize”) within-
named.

(To the end of the plea, and then as follows :)

And as to the offence in the last count of the said declara-
tion mentioned, the said *C. D.* says nothing in bar or pre-
clusion of the said action of the said *A. B.* whereby the said
A. B. *debi* on statute.

(§ 80.)
Inquisition and
return, on sta-
tute 8 & 9 W.
III. c. 11. § 8.

(§ 81.)
Return.

(§ 82.)
Judgment by
nil dicit as to
one count, and
nolle prosequi to
two others,
after plea, in
A. B. debi on statute.

CHAP. XXI. *A. B.* remains therein undefended against the said *C. D.*

And hereupon the said *A. B.* freely here in court says, that he will not further prosecute his suit against the said *C. D.* for the said offences in the said first and second counts of the said declaration mentioned; and he prays judgment for the said sum of — *l.* in the said last count of the said declaration mentioned, parcel of the said sum of — *l.* above demanded, together with his costs and charges by him laid out about his suit in this behalf: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the said sum of — *l.* in the said last count of the said declaration mentioned, parcel, &c. and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent, according to the form of the statute in such case made and provided; and the said *C. D.* in mercy, &c. And let the said *C. D.* be acquitted of the said offences in the said first and second counts of the said declaration mentioned, and go thereof without day, &c.

Judgment
signed, (&c.)

Meay.

(§ 83)
Judgment by
nil dicit, and
award of in-
quiry, in ac-
cuse.

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and says nothing in bar or prclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.*, wherefore the said *A. B.* ought to recover against the said *C. D.* the goods and chattels aforesaid, or the value of the same, if the said *A. B.* cannot have again the said goods and chattels, and also the damages by him the said *A. B.* sustained by reason of the detention thereof. But because it is unknown to the court of our said lord the king now here, what is the value of the said goods and chattels, and also what damages the said *A. B.* hath sustained on occasion of the detention thereof, the sheriff is commanded, that by the oath of twelve good and lawful men of the bailiwick, he diligently inquire what is the value of the said goods and chattels, and also what damages the said *A. B.* hath sustained, as well on occasion of the detention thereof, as for all costs and charges by him laid out in this behalf demanded; and that he send the inquisition, with the names of the men, to our said lord the king, and to the justices, (&c.) under his seal, and the seals of those men, with the said inquisition, together with

with the writ of our said lord the king to him in that behalf directed; the same day is given to the said *C. D.* at the same place, &c. CHAP. XXI.

The entry (or further entry) of *E. F.* gentleman, one, &c. of the term of — 54 *Geo. III.* 18—. (§ 84.)
Docket-piper,
in K. B.

(*Venue*) Judgment by confession, between *A. B.* plaintiff, and *C. D.* defendant, for — *l.* debt, and — *s.* costs. } *Roll*
—

(*Venue*) Judgment of *assets in futuro*, between *A. B.* plaintiff, and *C. D.* executor of *I. K.* deceased defendant, for — *l.* debt. } —

(*Venue*.) Judgment by default in *case*, between *A. B.* plaintiff, and *C. D.* defendant, for — *l.* damages and costs. } —

(*Venue*) Judgment by *nil dicit*, between *A. B.* plaintiff, and *C. D.* defendant, for — *l.* debt, and — *s.* damages. } —

Cognovit actionem, (or confession,) in *case*.

(*Venue*.) *A. B.* plaintiff, } *Roll*
C. D. defendant. } —

(§ 85.)
Entries on
docket-roll, in
C. P.

The like, in *debt*.

(*Venue*.) *A. B.* plaintiff, } —
C. D. defendant. } —

Non sum informatus, (or not informed,) in *case*.

(*Venue*.) *A. B.* plaintiff, } —
C. D. defendant. } —

The like, in *debt*.

(*Venue*.) *A. B.* plaintiff, } —
C. D. defendant. } —

Nil dicit, (or says nothing,) in *case*.

(*Venue*.) *A. B.* plaintiff, } —
C. D. defendant. } —

The like, in *debt*.

(*Venue*.) *A. B.* plaintiff, } —
C. D. defendant. } —

CHAP. XXIX.

Of OYER of DEEDS, &c. ; and PARTICULARS of DEMAND, or SET-OFF.

(§ 1.)
Demand of
oyer, by the de-
fendant.

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

B. against D.

THE defendant demands oyer and copy of the writing obligatory mentioned in the declaration in this cause, and the condition thereof, (or of the deed-poll, indenture, articles of agreement, &c. mentioned in the declaration in this cause.)

Your's, &c.

G. H. defendant's attorney,
(agent, or clerk in court.)

To Mr. *E. F.* plaintiff's attorney, (&c)

(§ 2.)
The like, by
the plaintiff.

The plaintiff demands oyer and copy of the deed of release, (&c.) mentioned in the plea in this cause.

Your's, &c.

(§ 3.)
Summons for
particulars of
plaintiff's de-
mand, in K. B.

D. } Let the plaintiff's attorney or agent attend me, at
ats. } my chambers in *Serjeants' Inn*, to-morrow, (or on —
B. } next) at — of the clock in the — to shew cause,
why he should not deliver to the defendant's attorney or
agent an account in writing of the particulars of the plain-
tiff's demand, for which this action is brought; and, in
the meantime, all proceedings in this cause should not be
stayed.

(§ 4.)
Order there-
upon.

D. } Upon hearing the attorneys or agents on both sides,
ats. } I do order that the plaintiff's attorney or agent shall
B. } deliver to the defendant's attorney or agent an ac-
count in writing of the particulars of the plaintiff's de-
mand,

mand, for which this action is brought; and that in the meantime, all further proceedings in this cause be stayed. Dated, (&c.)

CHAP. XXII.

In the Exchequer of Pleas.

A. B. plaintiff,

and

C. D. defendant.

(§ 5)
Affidavit for
obtaining particulars
of plaintiff's demand, in the
Exchequer.

C. D. of — defendant above-named, maketh oath and saith, that he this deponent hath not received any particulars (or that he is unacquainted, or not sufficiently acquainted with the particulars) of the plaintiff's demand, for which this action is brought; and that it is necessary for him to have such particulars, in order to his defence in this action.

Sworn, (&c.)

C. D.

If a particular of the plaintiff's demand has been delivered, a copy of it may be annexed to the affidavit, stating that the defendant is unacquainted with the particulars of the plaintiff's demand, unless the paper writing hereto annexed does contain the same.

In the King's Bench, (&c.)

A. B. plaintiff,

and

C. D. defendant.

(§ 6)
Particulars of
demand, in ac-
tion on bills of
exchange,
with the mo-
ney counts.

This action is brought to recover the amount of the several bills of exchange, mentioned in the — counts of the declaration, copies of which are hereunder written; and also for the recovery of the balance due to the plaintiff, on the following account: (here copy the bills and account; taking care to omit any items which may be objectionable, on the credit side of it.)

The above are the particulars of the plaintiff's demand in this action.

Your's, (&c.)

E. F. plaintiff's attorney, (&c.)

To Mr. G. H. defendant's attorney, (&c.)

— day of — 18—

This action is brought to recover the sum of — remain-
ing due to the plaintiff, at — last, for the use and occupa-
tion of a dwelling-house, (&c.) situate, (&c.)

(§ 7)
The like, in an
action for use
and occupation.

— plaintiff

CHAP.
XXII.

tiff to the defendant, in the beginning of the year 18—, at the rent of — *l. per annum*, and occupied by the defendant, under that letting, to — last.

(§ 8)
The like, in an
action on a
warranty, &c.

This action is brought to recover damages, as stated in the — counts of the declaration, arising from the purchase of — cases of powder, sold by the defendant to the plaintiff, in the month of — 18—; which powder the defendant warranted to be genuine unadulterated Peruvian bark, of the best quality, but which afterwards proved to be spurious and adulterated, with little or no real Peruvian bark mixed with it, and therefore — of the said — cases, with the contents thereof, were returned by the plaintiff to the defendant, and the — remaining cases were deposited with *E. F.* of — on account and for the use of the defendant, of which he had due notice.

The nature of these damages is fully detailed in the declaration; and the plaintiff also seeks to recover back in this action, the sum of — *l.* paid by him to the defendant, on account of the said bark.

(§ 9)
The like, in an
action for
mesne profits.

This action is brought to recover the mesne profits of a messuage, (&c.) with the appurtenances, situate, (&c.) from the death of *E. F.* which happened on or about the — day of — 18— till the execution of the writ of possession, issued on a judgment in ejectment, brought on the demise of the plaintiff, being on or about the — day of — 18— at the rate of — *l. per annum*; and also — *l.* for the costs of obtaining possession of the premises under the said judgment.

(§ 10)
Particulars of
set-off.

Following are the particulars of the defendant's set-off in this action.

(Received of the account, containing the particulars.)

To Mr. — defendant's attorney, (&c.)

To Mr. — plaintiff's attorney, (&c.)

CHAP. XXIII.

Of CHANGING the VENUE; and CONSOLIDATING ACTIONS.

In the King's Bench,

(Common Pleas, or

Exchequer of Pleas.)

A. B. plaintiff,

and

C. D. defendant.

(§ 1.)
Affidavit to
change the ve-
nue, in K. B.

C. D. of — the above defendant, maketh oath and saith,
that the plaintiff's cause of action (if any,) arose in the county
of *L.* and not in the county of *M.* (where the venue is laid,) or elsewhere out of the said county of *L.*

C. D.

Sworn, (Ec.)

Upon reading the affidavit of the defendant, it is (§ 2.)
ordered, that the action be laid in the county of *L.* Rule thereon.
Upon the motion of Mr —.

Upon reading, &c. (the rule to change the venue,) (§ 3.)
and upon the undertaking of the plaintiff, to give Rule for bring-
material evidence of some matter in issue arising in ing back the
the county of — (the county where the action was first laid,) venue, in K. B.
it is ordered, that the said rule be discharged. Upon the
motion of Mr. —.

In the Common Pleas.

term, in the — year of the reign of *George the Third.* (§ 4.)

George the Third.

Upon reading the affidavit of *D.* and
respecting the plaintiff's cause of action, it
is ordered, that the action be laid in the county of —
to be given to him or her, —
court, on — next, by the plaintiff, to be laid in
the county of —
in the county of —
in a county palatine, — hereby
under-

CHAP. undertaking, not to assign for error, the want of an original
XXIII. writ.")

By the Court.

On the motion of Serjeant ——— for the defendant.

(§ 5.)
Consolidation
rule, in K. B.

—— on (or next after) —— in the —— year of king
George the Third.

B. v. D. } Upon reading the rule, (&c) it is ordered, that
E. } upon the submission of the defendants *E. F.* and
F. } *G.* to be bound and concluded, in the actions brought
G. } against them, by the fate of such verdict as shall
be found in the action brought against the defendant *D.* all
further proceedings in the actions brought against the de-
fendants *E. F.* and *G.* be stayed, until this court shall other-
wise order: And if a verdict shall be given, in the action
against the defendant *D.* in favour of the plaintiff, to the
satisfaction of the lord chief-justice, or other judge before
whom the said cause shall be tried, that then no writ of error
shall be brought, upon the judgment to be entered on the said
verdict, nor shall any bill in equity be filed, to be relieved
against such verdict.

By the Court

(§ 6)
Judge's order
for consolida-
tion, in C. P.

B. v. D. } Upon hearing the attornies or agents on both
E. } sides, and upon the defendants in the —— last-
F. } mentioned causes undertaking to be bound and
G. } concluded, by such verdict as shall be found on the
trial of the first-mentioned cause, I do order, that all further pro-
ceedings in the said —— last-mentioned causes be stayed, until
the trial of the said first-mentioned cause.

CHAP. XXIV.

Of BRINGING MONEY into COURT.

— on (or next after) —, in the — year of king George the Third. (§ 1.)

Rule for bringing money into court, in K. B.

B. } IT is ordered, that the defendant have leave to bring
v. } into court —*l.*; and thereupon, unless the plaintiff
D. } shall accept thereof, with costs to be taxed by the
master, in full discharge of this suit, the said —*l.* shall be
struck out of the declaration, and paid out of court to the
plaintiff or his attorney; and upon the trial of the issue, the
plaintiff shall not be permitted to give evidence for the said
—*l.* Upon the motion of Mr. —.

By the Court.

In the Common Pleas.

— term, in the — year of the reign of king George the Third. (§ 2.)

The like, in C. P.

— the — day of —.

B. } It is ordered, that the defendant shall pay to the
v. } plaintiff, or his attorney, —*l.* together with costs, to
D. } be taxed by one of the prothonotaries of this court,
if the plaintiff will accept thereof in full discharge of this
suit; and that thereupon all further proceedings in this
action shall be stayed: But if the plaintiff will not accept
thereof, in full discharge of this suit, that then the defendant
shall immediately bring the said —*l.* into the court, and
the said —*l.* shall be considered as struck out of the de-
claration, and be paid out of court to the plaintiff or his attor-
ney; and upon the trial of the issue, the plaintiff shall be
permitted to take a verdict for the said —*l.* and shall
prove beyond the said —*l.*

On the motion of —

N. B. The defendant may take advantage of this rule at
the trial.

CHAP
XXIV.

(§ 3.)

The like, in the
Exchequer.

— term, (&c.)

. — the — day of —.

B. against D.

Upon the motion of Mr. — of counsel for the defendant, it is ordered, that the said defendant bring into this court, the sum of —*l.* to be paid to the plaintiff, his attorney or clerk in court; and if the plaintiff will accept thereof, with costs to be taxed, in full discharge of this suit, that then he shall proceed to tax such costs; and the defendant shall also pay to the plaintiff, his attorney or clerk in court, such costs; and that thereupon all further proceedings in the action shall be stayed: And if the plaintiff will not accept of such sum, with the costs, in full discharge of this suit, then the plaintiff is to be at liberty to take the said sum of —*l.* out of court, and to proceed in his cause; but in that case, he shall suffer a nonsuit at the trial of the said cause, unless his demand shall be found to exceed the said sum of —*l.*; and that if his demand shall be found to exceed the said sum of —*l.* then that he shall take his verdict for the excess only

By the Court.

Rose.

CHAP. XXV.

Of PLEAS, &c. in ABAISEMENT ; and JUDGMENTS thereon.

— term, in the — year of the reign of king (§ 1.)
George the Third. Plaintiff's statement, of misnomer in defendant's christian name.

C. D. sued by the name of *E. D.* } **AND** *C. D.* against whom the said *A. B.* hath sued out his original writ, and declared, (or by bill, hath exhibited his said bill,) by the name of *E. D.* in his own person, comes and says, that he was baptized by the name of *C.* to wit, at —, and by the name of *C. D.* hath always since his baptism hitherto been called and known; without this, that he the said *C. D.* now is, or at the time of suing out the said original writ (or exhibiting the said bill), was, or ever before had been, called or known by the christian name of *E.* as by the said writ (or bill) is above supposed; and this he the said *C. D.* is ready to verify, wherefore he prays judgment of the said original writ, and of the declaration also and thereon founded, (or “of the said bill”), and that the same may be quashed, &c.

In the King's Bench, *A. B.* plaintiff, (§ 2.)
 (Common Pleas, or and Attest it of the truth thereof.
 Exchequer of Pleas.) *C. D.* sued by the name of *E. D.* defendant.

C. D. of — the defendant in this cause, maketh oath and saith, that the plea hereunto annexed is true, in substance and matter of fact.

C. D.

Sworn, (&c.)

B. } And the said *A. B.* saith, that his said original writ (or (§ 3.)
v. } bill), by reason of any thing in the said plea above al- Repetition to
l.) } ledged, ought not to be quashed; because he saith, that the plaintiff's
 the said *C. D.* who now appears to the said original writ (or declaration
 bill), is the same person against whom he the said *A. B.* sued known to be
 out is the same

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XXV.

out (or exhibited) the same, by the name of *E. D.*; and that he the said *C. D.* before and at the time of suing out the said original writ, (or exhibiting the said bill,) was, and from thence hitherto hath been, and now is, called and known as well by the name of *E. D.* as by the said name of *C. D.*; and this he the said *A. B.* prays may be inquired of by the country, &c.

(§ 1)
Cassell or lula
vel breve

And hereupon the said *A. B.* inasmuch as he cannot deny the several matters above pleaded by the said *C. D.* but admits the same to be true, prays judgment, and that the said bill (or writ) of him the said *A. B.* may be quashed, to the intent that he the said *A. B.* may exhibit a better bill (or sue out a better writ) against the said *C. D.* Therefore it is considered by the court of our said lord the king before the king himself now here, that the said bill (or writ) of the said *A. B.* be quashed, &c.

(§ 2)
The entry (or declaration) of *A. B.* gentleman, one, &c.
of the record — 31 C. III. 18 —

The entry (or declaration) of *A. B.* gentleman, one, &c.
of the record — 31 C. III. 18 —

(*For the entry of the bill (or writ) of the said A. B. against the said C. D. in the roll, and the said C. D. defend*) } *Roll —*
an, or a plea in abatement

(§ 3)
Judgment of
respondens our
lord the king
in the
court of the
Exchequer.
abatement.

(To the end of the demurrer-book, and then as follows)
At which day, before our said lord the king at *Westminster*, come or in the Common Pleas and Exchequer, “At which day come here,” as well the said *A. B.* as the said *C. D.* by the respective attorneys aforesaid. Whereupon all and singular the premises being seen, and by the court of our said lord the king now here (or in C. P. or the justices, or in the Exchequer, “by the justices here”) fully understood, and mature deliberation being thereupon had, it appears to the said court (or “to the said justices, or barons”) here, that the said plea of the said *C. D.* by him above pleaded, (or, on demurrer to a rejoinder, “that the said plea of the said *C. D.* by him above pleaded by way of rejoinder,”) and the matters therein contained, are not sufficient in law to quash the said bill (or writ) of the said *A. B.*: Therefore it is considered, that the said *C. D.* answer further to the said bill (or writ) and declaration of the said *A. B.*; and thereupon a further day is given

to

to the parties aforesaid, before our said lord the king at *Westminster*, until — next after —, (or, in the Common Pleas and Exchequer, to the parties aforesaid here, until —,) that is to say, for the said *C D.* to plead in chief to the said declaration of the said *A B.* At which day, before our said lord the king at *Westminster*, come (or in the Common Pleas and Exchequer, “At which day come here,”) as well the said *A B.* as the said *C D.* by their attorneys aforesaid; and the said *C D.* by his said attorney, defends the wrong and injury, when, &c. (proceeding with the plea in chief, &c.)

At which day, before our said lord the king at *Westminster*, come (or in the Common Pleas and Exchequer, “At which day come here,”) as well the said *A B.* as the said *C D.* by their respective attorneys aforesaid, whereupon all and singular the premises being seen, &c. (as in the last,) it appears to the said court, (or in C. P. “to the justices,” or in the Exchequer, “to the barons”) here, that the said plea of the said *A B.* by him above pleaded by way of reply, and the matters therein contained, are sufficient in law to compel the said *C D.* to answer further to the said bill (or writ) and declaration of the said *A B.* : Therefore it is considered, &c. (as in the last.)

CHAP. XXVI.

Of the GENERAL ISSUE ; and NOTICE of SET-OFF, &c.

(§ 1)
Plea of non as-
sumpt

— term, in the — year of the reign of king
George the Third.

D. } AND the said *C. D.* by *G. H.* his attorney, comes
ats. } and defends the wrong and injury, when, &c. and says,
B. } that he did not undertake or promise, in manner and
form as the said *A. B.* hath above thereof complained against
him; and of this he the said *C. D.* puts himself upon the
country, &c.

(§ 2)
The law, by
guardian.

D. } And the said *C. D.* by *G. H.* who is admitted by
ats. } the court (or in C. P. by the justices) of our lord
B. } the king now here, to defend for the said *C. D.* who
is an infant within the age of twenty one years, as the guar-
dian of the said *C. D.* comes and defends the wrong and in-
jury, when, &c. and says that he the said *C. D.* did not under-
take, &c. (is in the last.)

(§ 3)
Plea of nil de-
bet.

D. } And the said *C. D.* by *G. H.* his attorney, comes and
ats. } defends the wrong and injury, when, &c. and says that
B. } he doth not owe to the said *A. B.* the said sum of
—*l.* above demanded, or any part thereof, in manner and
form as the said *A. B.* hath above thereof complained against
him; and of this he the said *C. D.* puts himself upon the
country, &c.

(§ 4)
Plea of non est
factum.

D. } And the said *C. D.* by *G. H.* his attorney, comes and
ats. } defends the wrong and injury, when, &c. and says that
B. } the supposed writing obligatory (or indenture, &c.) in
the said declaration mentioned, is not his deed; and of this
he puts himself upon the country, &c.

(§ 5.)
Plea of not
guilty, in case
of trespass.

D. } And the said *C. D.* by *G. H.* his attorney, comes and
ats. } defends the wrong (or in *trespass*, the force) and in-
B. } jury, when, &c. and says that he is not guilty of the
premises,

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XXVI.

premises, (in case; or in trespass, of the supposed trespass; or in trespass and assault, of the supposed trespass and assault,) above laid to his charge, in manner and form as the said *A. B.* hath above thereof complained against him; and of this he the said *C. D.* puts himself upon the country, &c.

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

A. B. plaintiff,
and
C. D. defendant.

(§ 6.)
Notice of set-
off, for work
and labour, &c.

Sir,

Take notice, that the above-named defendant, on the trial of this cause, will give in evidence and insist, that the above-named plaintiff, before and at the time of the commencement of this suit, was and still is indebted to the said defendant, in the sum of —*l.* of lawful money of *Great Britain*, for the work and labour, care and diligence of the said defendant, by him the said defendant before that time done performed and bestowed for the said plaintiff, and at his request; and for divers materials and other necessary things, used and employed in and about that work and labour, by the said defendant before that time found and provided for the said plaintiff, and at his like request; and for divers goods, wares and merchandizes, by the said defendant before that time sold and delivered to the said plaintiff, and at his like request; and for money by the said defendant before that time lent and advanced to the said plaintiff, and at his like request; and for other money by the said defendant before that time paid laid out and expended for the said plaintiff, and at his like request; and for other money by the said plaintiff before that time had and received to and for the use of the said defendant; and that the said defendant will set off and allow to the said plaintiff, on the trial of the said cause, so much of the said sum of —*l.* so due and owing from the said plaintiff to the said defendant, against any demand of the said plaintiff, to be proved on the said trial, as will be sufficient to satisfy and discharge such demand, according to the form of the statute in such case made and provided. Dated this — day of — 18—.

Your's, &c.

G. H. defendant's attorney,
(agent, or clerk in court.)

To Mr. *E. F.* plaintiff's attorney, (&c.)

In

CHAP.
XXVI.
(§ 7.)
Notice of de-
fendant's in-
tention to dis-
pute petition-
ing creditor's
debt, &c. on
stat. 49 Geo.
3. c. 121. §
7.

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

A. B. and *C. D.* suing as
assignees, &c. of *E. F.* a
bankrupt, plaintiffs,
and

G. H. defendant.

Take notice, that the defendant intends to dispute the pe-
titioning creditor's debt, trading, and bankruptcy of the above-
named *E. F.* on the trial of this cause. Dated, (&c.)

Your's, &c.

L. M. defendant's attorney, (&c.)

To *A. B.* and *C. D.* the above-named
plaintiffs, and Mr. *I. K.* their attor-
ney, (&c)

(§ 8.)
Rule to plead
several mat-
ters, in K. B.

B. } It is ordered, that the defendant have leave to plead
v. } several matters, to wit, the general issue of *non assump-*
D. } *sit.* the statute of limitations, and a set-off for work and
labour, &c. (describing the pleas.) Upon the motion of Mr.

By the Court.

(§ 9.)
The like, in
C. P.

B. } It is ordered, that the plaintiff, upon notice of this rule,
v. } to be given to him or his attorney, shall shew cause to
D. } this court, on ——— next, why the defendant should
not have leave to plead several matters in this cause, (that is
to say,) first, the general issue, &c. (as above).

By the Court.

On the motion of Serjeant ——— for the defendant.

(§ 10.)
Rule to abide
by plea, in
K. B.

B. } It is ordered, that the defendant, upon notice of this
v. } rule, to be given to his attorney, shall abide by his plea
D. } already pleaded, or plead such other plea peremptorily
on the morrow, as shall not be waived; otherwise let judgment
be entered for the plaintiff.

Upon the motion of Mr. ———.

By the Court.

CHAP. XXVII.

Of the Rule to REPLY, &c. ; JUDGMENT of NON-PROS, for not REPLYING ; DISCONTINUANCE ; and NOLLE PROSEQUI.

B. } — next after — is given to the plaintiff to (§ 1.)
v. } reply. Rule to reply,
D. } Entered in K. B.

In the Common Pleas.

B. against D. (§ 2.) Demand of replication, in C. P.
 The defendant demands a replication in this cause, by
 Your's, &c.
G. H. defendant's attorney,
 (or agent).

To Mr. *E. F.* plaintiff's attorney,
 (or agent).

In the King's Bench,

(Common Pleas, or

Exchequer of Pleas.)

B. against D. (§ 3.) Term's notice to reply.

Take notice, that the defendant intends to proceed, after the end of the ensuing term, by giving a rule to reply in this cause. Dated, (&c.)

Your's, &c.

E. F. plaintiff's attorney,
 (agent, or clerk in court.)

To Mr. *G. H.* defendant's attorney, (&c.)

As yet of — term, (&c.)

(Entry of warrant of attorney for defendant.)

(§ 4.) Judgment of non-pros, for not replying, in K. B.

(to wit.) Be it remembered, &c. (as in an issue, to the end of defendant's plea, and then as follows:)

And upon this the said *C. D.* prays that the said *A. B.* may reply to the aforesaid plea of him the said *C. D.*; and thereupon

CHAP.
XXVII.Judgment
signed, (&c.)

upon a day is given by the court here, to the said *A. B.* before our lord the king at *Westminster*, until — days next after the end of this same term, that is to say, for him the said *A. B.* to reply to the aforesaid plea of the said *C. D.*; the same day is given to the said *C. D.* at the same place: At which day before our said lord the king at *Westminster*, comes the said *C. D.* by his attorney aforesaid; and the said *A. B.* although at that day solemnly called, comes not, nor hath he replied to the aforesaid plea of the said *C. D.* nor doth he further prosecute his said suit: Therefore it is considered by the court here, that the said *A. B.* take nothing by his said bill (or writ), but that he and his pledges to prosecute be in mercy, &c. And it is further considered by his majesty's court here, that the said *C. D.* do recover against the said *A. B.* — *l.* for his costs and charges by him laid out about his defence in this behalf, by the court of our said lord the king now here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

(§ 3.)
The like, in
C. P.

— (to wit.) *C. D.* was attached (or summoned) to answer *A. B.* &c. (as in an issue, to the end of defendant's plea, and then as follows:)

Judgment
signed, (&c.)

And the said *A. B.* prays a day to reply to the said plea of the said *C. D.*; and it is granted to him, &c.: And hereupon a day is given to the said *A. B.* before the justices here, until — for the said *A. B.* to reply, &c.; the same day is given to the said *C. D.* here, &c. At which day, comes here the said *C. D.* by his said attorney; and the said *A. B.* although solemnly called, cometh not, but maketh default: Therefore it is considered by the court here, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy; and that the said *C. D.* may depart the court here without day, for ever dismissed therefrom: It is also considered, that the said *C. D.* do recover, &c. (as in the last.)

(§ 6.)
Rule to dis-
continue, in
K. B.

B. It is ordered, upon payment of costs, to be taxed
v. by the master, that this action be discontinued.
D.

It

B. } It is ordered, that the plaintiff do and shall pay to the CHAP.
 v. } defendant, or his attorney, costs to be taxed by one of XXVII.
 D. } the prothonotaries of this court; and upon payment (§ 7.)
 thereof, that the plaintiff have leave to discontinue this The like, in C. P.
 action.

Afterwards, to wit, on — next after — in — term, in (§ 8.)
 the — year of the reign of our lord the now king, before Entry of dis-
 our said lord the king at *Westminster*; came the said *C. D.* by continuance by
 his attorney aforesaid; and the said *A. B.* did not then and bill, in K. B.
 there prosecute his said bill against the said *C. D.* with effect,
 but voluntarily permitted his suit to be discontinued: There-
 fore it is considered, that the said *A. B.* take nothing by his
 said bill, but that he and his pledges to prosecute be in mercy,
 &c. And it is further considered, &c. (as before, p. 268.)

It is recorded by the court, on — in — term in the — (§ 9.)
 year of the reign of our lord the now king, that the plea The like, by
 aforesaid hath not a day of continuance by the same roll, original.
 beyond the aforesaid —: Therefore let the plea aforesaid
 be discontinued, at the request of the said *A. B.* &c.

And hereupon the said *A. B.* inasmuch as he cannot deny (§ 10.)
 the several matters above pleaded by the said *C. D.* freely Judgment for
 here in court confesses, that he will not further prosecute his the defendant,
 suit against the said *C. D.* Therefore it is considered by the on a nolle pro-
 court here, that the said *A. B.* take nothing by his said bill sequi.
 (or writ), but that he and his pledges to prosecute be in
 mercy, &c. and that the said *C. D.* do go thereof without day,
 &c. And it is further considered, &c. (as before, p. 268.)

And hereupon the said *A. B.* freely here in court says, that (§ 11.)
 he will not further prosecute his suit against the said *C. D.* The like, as to
 in the plea aforesaid: Therefore let the said *C. D.* be acquit- one of several
 ted of the premises in the said declaration mentioned, and go defendants.
 thereof without day, &c.

And hereupon the said *A. B.* freely here in court con- (§ 12.)
 fesses, that he will not further prosecute his suit against the The like, as to
 said *C. D.* in respect of the premises in the — count of a particular
 the said declaration mentioned: Therefore, as to the premises count.
 in that count mentioned, let the said *C. D.* be acquitted, and
 go thereof without day, &c.

CHAP. XXVIII.

Of DEMURRERS, and AMENDMENT.

(§ 1.)
General de-
murrer to a de-
claration, or
replication.

— term, in the — year of the reign of king
George the Third.

D. } AND the said *C. D.* by *G. H.* his attorney, comes
ats. } and defends the wrong and injury, when, &c. and says
B. } that the declaration aforesaid, (or if it be a demurrer to
a replication, it begins as follows: “And the said *C. D.* saith,
that the said replication of the said *A. B.* by him above made
to the said plea of the said *C. D.*”) and the matters therein
contained, in manner and form as the same are above stated
and set forth, are not sufficient in law for the said *A. B.* to
have or maintain his aforesaid action thereof against him the
said *C. D.*: To which said declaration (or replication), and
the matters therein contained, in manner and form as the
same are above stated and set forth, he the said *C. D.* is not
under any necessity, nor in any wise bound by the law of the
land to answer; And this he the said *C. D.* is ready to verify,
wherefore, for want of a sufficient declaration (or replication)
in this behalf, he prays judgment, and that the said *A. B.*
may be barred from having or maintaining his aforesaid ac-
tion thereof against him, &c.

— term, (&c.)

(§ 2.)
Joinder in de-
murrer thereto.

B. } And the said *A. B.* saith, that the said declaration, (or
v. } replication of the said *A. B.* by him above made to the
D. } said plea of the said *C. D.*) and the matters therein con-
tained, in manner and form as the same are above stated and
set forth, are sufficient in law for the said *A. B.* to have and
maintain his aforesaid action thereof against him the said *C. D.*;
and which said declaration (or replication), and the matters
therein contained, he the said *A. B.* is ready to verify and
prove, as the court (or in C. P. “the justices”) here shall di-
rect

rect and award; wherefore, inasmuch as the said *C. D.* hath not answered the said declaration (or replication), nor hitherto in any manner denied the same, he the said *A. B.* prays judgment, and his damages by him sustained on occasion of the not performing of the said several promises and undertakings in the said declaration mentioned, (or in *debt*, "his said debt, together with his damages by him sustained on occasion of the detention thereof,") to be adjudged to him, &c.

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And because the court of our lord the king now here, are not yet advised what judgment to give of and upon the premises, a day is given to the parties aforesaid, before our said lord the king at *Westminster*, on — next after —, (or by *original*, on — wheresoever, &c.) to hear judgment thereon; for that the said court of our said lord the king now here are not yet advised thereof, &c.

(§ 3.)
Continuance by
curia advisari
vult, in K. B.

And because the justices here will advise themselves, of and upon the premises, before they give their judgment thereon, a day is therefore given to the parties aforesaid here, until —, to hear their judgment thereon; for that the said justices here are not yet advised thereof, &c.

(§ 4.)
The like, in
C. P.

— term, (&c.)

(§ 5.)
General de-
murrer to plea,
or rejoinder.

B. } And the said *A. B.* saith, that the said plea (or re-
v. } joinder) of the said *C. D.* and the matters therein con-
D. } tained, in manner and form as the same are above
pleaded and set forth, are not sufficient in law to bar the said *A. B.* from having and maintaining his aforesaid action thereof against him the said *C. D.*: To which said plea, (or rejoinder,) and the matters therein contained, in manner and form as the same are above pleaded and set forth, he the said *A. B.* is not under any necessity, nor in any wise bound by the law of the land to answer: And this he the said *A. B.* is ready to verify; wherefore, for want of a sufficient plea (or rejoinder) in this behalf, he prays judgment, and his damages by him sustained on occasion of the not performing the said several promises and undertakings in the said declaration mentioned, (or in *debt*, "his said debt, together with his damages by him sustained on occasion of the detention thereof,") to be adjudged to him, &c.

And

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XXVIII.

(§ 6.)
Joinder in de-
murrer thereto.

— term, (&c.)

D. } And the said *C. D.* says, that his said plea (or re-
joinder), and the matters therein contained, in manner
B. } and form as the same are above pleaded and set forth,
are sufficient in law to bar the said *A. B.* from having or
maintaining his aforesaid action thereof against him the said
C. D.; and which said plea (or rejoinder), and the matters
therein contained, he the said *C. D.* is ready to verify and
prove, as the court (or in *C. P.* “the justices”) here shall direct
and award; wherefore, inasmuch as the said *A. B.* hath not
answered the said plea (or rejoinder), nor hitherto in any man-
ner denied the same, he the said *C. D.* prays judgment, and that
the said *A. B.* may be barred from having or maintaining his
aforesaid action thereof against him, &c. But because, &c.

(§ 7.)
Rule to amend,
in *K. B.*

— on (or next after) — in the — year of king
George the Third.

B. } It is ordered, that the plaintiff have leave to amend
v. } his declaration, &c. (or, the defendant to amend his plea,
D. } &c.) by inserting (or striking out), &c. (setting out the
nature of the amendment,) upon payment of costs, to be taxed
by the master, (if so directed). Upon the motion of Mr. —.

By the Court.

In the Common Pleas.

(§ 8.)
The like, in
C. P.

— term, (&c.)

— the — day of —

B. } Upon hearing counsel on both sides, on the matter of
v. } the demurrer in law depending between the said parties,
D. } it is ordered, that the plaintiff have leave to amend his
declaration (or, the defendant his plea) in this cause; upon
payment to the defendant (or plaintiff), or his attorney, of his
costs of and occasioned by such amendment, together with his
costs of and occasioned by this application to the court, to be
taxed by one of the prothonotaries of this court.

By the Court.

On the motion of Serjeant — for the plaintiff.

Serjeant — for the defendant.

CHAP. XXIX.

Of MAKING UP, and ENTERING the ISSUE; and JUDGMENT of NON-PROS, for not ENTERING it, &c.

— term, in the — year of the reign of king George the Third.

(§ 1.)
Issue by bill,
of the same
term with the
declaration, in
K. B.

Law & Markham.

— (to wit.) **BE** it remembered, that on — next after — in this same term, (the first day of the term of which the issue is made up, unless the cause of action accrued after that day, in which case the *memorandum* is special, stating the bill to have been exhibited on the day mentioned in the title of the declaration,) before our lord the king at *Westminster*, comes *A. B.* by — his attorney, and brings into the court of our said lord the king before the king himself now here, his certain bill against *C. D.* being in the custody of the marshal of the marshalsea of our said lord the king before the king himself, of a plea of trespass on the case upon promises; (or in *covenant*, of a plea of breach of covenant; in *debt*, of a plea of debt; in *detinue*, of a plea of detaining the goods and chattels of the said *A. B.*; in *case*, of a plea of trespass on the case; in *trespass*, of a plea of trespass; or in *assault* or *imprisonment*, in a plea of trespass and assault, or of trespass, assault and false-imprisonment, &c.) and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard Roe*; which said bill follows in these words, that is to say: — to wit. *A. B.* complains of *C. D.* &c. (here copy the declaration to the end, omitting the pledges, and proceed on a new line as follows:)

And the said *C. D.* by — his attorney, comes and defends the wrong and injury, when, &c. and says that he did not undertake or promise, in manner and form as the said *A. B.* hath above thereof complained against him; and of this he the said *C. D.* puts himself upon the country; and the said *A. B.* doth the like: Therefore let a jury thereupon come

T

before

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before our lord the king at *Westminster*, on — next after —, (some return-day before the trial; and if the trial be at the assizes or sittings after term, the last return-day of the preceding term,) by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, at the same place.

If the pleadings are special, they should be copied in their proper order, beginning each with a new line.

(§ 2.)
The like, of a
term subse-
quent to the
declaration, in
K. B.

— term, (the term of which issue is joined,) in the —
year of the reign of king *George the Third*.

Law & Markham.

(to wit.) Be it remembered, that in — term last past, (the term of which the declaration is entitled; and if the issue be made up more than four terms after the declaration, instead of the words “last past,” say “in the — year of the reign of our lord the now king,”) before our lord the king at *Westminster*, came *A. B.* by — his attorney, and brought into the court of our said lord the king before the king himself then there, his certain bill against *C. D.* being in the custody of the marshal of the marshalsea of our said lord the king before the king himself, of a plea of trespass on the case upon promises; (or as the plea is;) and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard Roe*; which said bill follows in these words, that is to say: — to wit. *A. B.* complains of *C. D.* &c. (here copy the declaration to the end, omitting the pledges, and proceed on a new line as follows:)

And now at this day, that is to say, on — next after — in this same term, until which day the said *C. D.* had leave to imparl to the said bill, and then to answer the same, &c. before our said lord the king at *Westminster*, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by — his attorney; and the said *C. D.* defends the wrong and injury, when, &c. and says, &c. (to the end of the pleadings, beginning each, if special, with a new line:.) Therefore let a jury thereupon come, &c. (as before.)

In the King's Bench.

— term, (the term of which the declaration is entitled,) in the — year of the reign of king *George the Third*.

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XXIX.
(§ 3.)
Issue by original, in K. B.

— (to wit.) *C. D.* was attached (or summoned) to answer *A. B. &c.* (as in the declaration, to the end.)

And the said *C. D.* by — his attorney, comes and defends, &c. (copying the pleadings in order :) Therefore the sheriff is commanded, that he cause to come before our lord the king, on —, wheresoever our said lord the king shall then be in *England*, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, &c.

In the King's Bench.

— term, in the — year of the reign of king *George the Third*.

(§ 4.)
The like, with imparlances, in K. B.

— (to wit.) *C. D.* was attached (or summoned) to answer *A. B. &c.* (as in the declaration, to the end.)

And the said *C. D.* by — his attorney, comes and defends the wrong and injury, when, &c. and prays a day thereupon to imparl to the said declaration of the said *A. B.* and it is granted to him, &c. And upon this a day is given to the parties aforesaid, before our lord the king, until — wheresoever, &c. that is to say, for the said *C. D.* to imparl to the declaration aforesaid, and then to answer the same: At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid; and the said *C. D.* says, &c. (to the end of the pleas.)

And the said *A. B.* prays a day to imparl to the said pleas of the said *C. D.* and it is granted to him, &c. and hereupon a day is given to the said *A. B.* before our said lord the king, until — wheresoever, &c. that is to say, for the said *A. B.* to imparl to the said pleas of the said *C. D.* and then to reply to the same; the same day is given to the said *C. D.* there, &c. At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; and the said *A. B.* as to the said plea of the said *C. D.* &c. (to the end of the pleadings :) Therefore the sheriff is commanded, &c. (as above.)

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(§ 5.)

The like, in
C. P.

In the Common Pleas.

— term, in the — year of the reign of king *George* the
Third.

— (to wit.) *C. D.* was attached (or summoned) to answer
A. B. &c. (as in the declaration, to the end, and then on a
new line as follows :)

And the said *C. D.* by *G. H.* his attorney, comes and defends
the wrong (or force) and injury, when, &c. (to the end of the
pleadings.) Therefore the sheriff is commanded, that he
cause to come here, on — twelve, &c. by whom, &c. and
who neither, &c. to recognize, &c. because as well, &c.

(§ 6.)

Issue in the
Exchequer, of
a term subse-
quent to the
declaration,
with an impar-
lance.

PLEAS, &c. (as before, p. 218.)

— (to wit.) Be it remembered, that heretofore, that is
to say, in — term last past, *A. B.* debtor of his present ma-
jesty, came before the barons of this Exchequer at *West-*
minster, by *E. F.* his attorney, and brought then here into
court his certain bill against *C. D.* of a plea of, (&c.) ; the
tenor of which said bill follows in these words, to wit : (Here
copy the declaration to the end, adding the pledges, and pro-
ceed on a new line as follows :)

And now here at this day, that is to say, on — in this
same term, until which day the said *C. D.* had leave to imparl
to the said bill, and then to answer the same, come as well
the said *A. B.* by his attorney aforesaid, as the said *C. D.* by
G. H. his attorney ; and the said *A. B.* prays that the said
C. D. may answer him in the premises : And upon this, the
said *C. D.* defends the wrong and injury, when, &c. and says,
&c. (here copy the pleadings.) Therefore, &c.

Where the issue is of the same term with the declaration, it
merely contains a transcript of the pleadings, after the *placita*,
beginning each with a new line, without any *memorandum* or
imparlance.

(§ 7.)

Award of ve-
nue, where
there are seve-
ral issues in
fact.

Therefore as well to try this issue, as the said other issue
(or issues) above joined between the parties aforesaid, let a
jury thereupon come, &c. (or by *original*, in K. B. or C. P.
the sheriff is commanded, &c.)

Therefore

Therefore as well to try this issue, as the said other issue (or issues) above joined between the said *A. B.* and the said *E. F.* let a jury thereupon come, &c. (or by *original*, in K. B. or C. P. the sheriff is commanded, &c.)

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(§ 8.)
The like, where there are several defendants, who plead separately.

(After the plea of *non est factum* and *similiter*, proceed as follows:)

(§ 9.)

And hereupon the said *A. B.* prays that the said writing obligatory in the said declaration mentioned may be enrolled, and the same is accordingly enrolled in these words, to wit: (here set out the obligatory part of the bond *verbatim*.) He also prays that the condition of the said writing obligatory may be enrolled, and the same is accordingly enrolled in these words, to wit: Whereas, &c. (here set out the condition of the bond, beginning with the recital, if any.) And for a breach of the said condition of the said writing obligatory, the said *A. B.* according to the form of the statute in such case made and provided, suggests, and gives the court here to understand and be informed, that, &c. (assigning the breach, and concluding as follows:) Therefore to try the said issue above joined between the said parties, and in case the said issue shall be found for the said *A. B.* to inquire of the truth of the said breach, in form aforesaid above assigned, and to assess the damages sustained thereby, let a jury thereupon come before our lord the king at *Westminster*, on — next after —, by whom, &c. and who neither, &c. because as well, &c. the same day is given to the parties aforesaid at the same place; (or by *original*, in K. B. or C. P. the sheriff is commanded, &c.)

Issue, and suggestion of breaches, after plea of *non est factum*, on stat. 8 & 9 W. III. c. 11. § 8. with award of *venire, tam ad triandum quam ad inquiringum*.

(After the plea, or rejoinder, proceed as follows:) And the said *C. D.* as to the residue of the trespasses in the said declaration mentioned, (or, as to the several trespasses above newly assigned,) says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.* in respect thereof; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages by him sustained on occasion of the said residue of the said trespasses, (or, of the said several trespasses above newly assigned): But because it is unknown to the court here, what damages the said *A. B.* hath sustained on occasion thereof;

(§ 10.)
Entry, and award of *venire*, where the defendant in *tr. p. m.* lets judgment go by default as to part of the declaration, or the trespasses newly assigned.

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thereof; and because it is convenient and necessary that there be but one taxation of damages in this suit; therefore let such taxation, and the giving of judgment in this behalf be stayed, until the trial of the said issue (or issues) above joined between the parties aforesaid: And as well to try the said issue (or issues,) as to inquire what damages the said *A. B.* hath sustained on occasion of the committing of the said residue of the said trespasses, (or, of the said several trespasses above newly assigned), let a jury thereupon come, &c. (or by *original*, in K. B. or C. P. the sheriff is commanded, &c.)

(§ 11.)

The like, where there are several defendant-, one of whom pleads, and another lets judgment go by default.

(After copying the plea and issue thereon, if it conclude to the country, proceed as follows :) And the said *E. F.* in his proper person, comes and defends the wrong and injury, when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *E. F.* wherefore the said *A. B.* ought to recover against the said *E. F.* his damages by reason of the premises: But because it is unknown to the court here, what damages the said *A. B.* hath sustained by reason thereof; and because it is also at present unknown to the court here, whether the said *C. D.* will be convicted of the premises, upon which the said issue is above joined between the said *A. B.* and the said *C. D.* or not; and because it is convenient and necessary that there be but one taxation of damages in this suit; therefore let such taxation, and the giving of judgment in this behalf against the said *E. F.* be stayed, until the trial or determination of the said issue above joined between the said *A. B.* and the said *C. D.* And as well to try the said issue above joined between the said *A. B.* and the said *C. D.* as to inquire against the said *E. F.* what damages the said *A. B.* hath sustained in this behalf, let a jury thereupon come, &c. (or by *original*, in K. B. or C. P. the sheriff is commanded, &c.)

(§ 12.)

The like by *original*, in K. B. where the plea is of a term subsequent to the declaration.

(After the declaration, proceed as follows:)

And the said *C. D.* by — his attorney, and the said *E. F.* in his proper person, come and defend the wrong and injury, when, &c. and pray a day thereupon to imparl, &c. (as before, p. 275.) At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* as the said *C. D.*

by

by their respective attornies aforesaid, and the said *E. F.* in his proper person ; and the said *C. D.* says, that he did not undertake or promise, (&c.) And of this he puts himself upon the country ; and the said *A. B.* doth the like. And the said *E. F.* says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *E. F.* wherefore the said *A. B.* ought to recover against the said *E. F.* his damages by reason of the premises : But because it is unknown, &c. (as in the last precedent.)

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Therefore as well to try this issue, (the issue in fact,) as to inquire what damages the said *A. B.* hath sustained on occasion of the premises, whereupon the said other issue is above joined between the parties aforesaid, to be tried by the record, in case the said last-mentioned issue shall happen to be found for the said *A. B.* let a jury thereupon come, &c. (or by *original*, in K. B. or C. P. the sheriff is commanded, &c.)

(§ 13.)
The like, where there are several issues, one triable by the country, and another by the court, on *nul tiel record*.

And as well to try the issue above joined to be tried by the country, as to inquire what damages the said *A. B.* hath sustained, on occasion of the premises whereof the said parties have put themselves upon the judgment of the court, by the production or non-production of the record, in case judgment shall be thereupon given for the said *A. B.* let a jury thereupon come, &c. (or by *original*, in K. B. or C. P. the sheriff is commanded, &c.)

(§ 14.)
The like, another way.

(After the entry of the pleadings, and continuance by *curia advisari vult*, proceed as follows :) And because it is unknown to the said court here, whether or not the said *C. D.* will be convicted of the premises, whereof the said parties have put themselves upon the judgment of the court ; and because it is convenient and necessary that there be but one taxation of damages in this suit ; therefore, as well to try the said issues above joined between the said parties, to be tried by the country, as to inquire what damages the said *A. B.* hath sustained, by occasion of the premises whereof the said parties have put themselves upon the judgment of the court, if judgment shall happen to be thereupon given for the said *A. B.*

(§ 15.)
The like, where there are several issues, in fact and in law.

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A. B. let a jury thereupon come, &c. (or by *original*, in K. B. or C. P. the sheriff is commanded, &c.)

(§ 16.)
Award of *mit-*
timus, to the
county-pala-
tine of *Lan-*
caster, or *Che-*
ster.

Therefore let a jury be made thereof: And because the said issue above joined between the parties aforesaid, ought to be tried by men of the county-palatine of *Lancaster*, (or *Chester*,) that is to say, of the body of the said county, where the writ of our said lord the king doth not run, and not elsewhere; therefore to try the said issue above joined between the parties aforesaid, let the record of the plaint aforesaid be sent to his majesty's justices of the said county-palatine of *Lancaster*, (or *Chester*,) so that the same justices, by his said majesty's writ of that county to be duly made, and to the sheriff of the same county directed, do command the said sheriff, that he cause twelve free and lawful men of the body of the said county of *Lancaster*, (or *Chester*,) to come before the said justices, at their next general sessions of assize to be holden for the said county, after the said record shall have been delivered to them, each of whom, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. And when the verification and issue aforesaid shall have been there made and tried, that then the said justices shall send the record of the plaint aforesaid, together with every thing that shall be done thereupon before them, in his said majesty's court there, to our said lord the king (or in C. P. to his said majesty's justices) at *Westminster*, at a certain day which the said justices shall appoint to the said parties, to be in the same court there, to hear judgment thereupon.

(§ 17.)
The like, to the
county-pala-
tine of *Dur-*
ham.

Therefore let a jury be made thereof: And because the said issue above joined between the parties aforesaid, ought to be tried by men of the county-palatine of *Durham*, that is to say, of the body of the said county-palatine, where the writ of our said lord the king doth not run, and not elsewhere; therefore, to try the said issue above joined between the parties aforesaid, let the record of the plaint aforesaid be sent in charge to the bishop of *Durham*, that he may further give in charge the said record unto his said majesty's justices within that liberty, so that the same justices may have it at his said majesty's next court, to be holden at *Durham* within the said county, after the said record shall have been delivered

vered to them, there to cause the verification of the issue aforesaid to be made, as the law shall direct in this behalf; and a day is given then and there to the said parties: And when the verification and issue aforesaid shall have been there made and tried, that then the said bishop shall send the record of the plaint aforesaid, together with every thing that shall be done thereupon, in his said majesty's court there, to our said lord the king (or in C. P. to his said majesty's justices) at *Westminster*, at a certain day which the said justices shall appoint the said parties, to be in the same court there, to hear judgment thereupon.

Therefore let a jury be made thereof: And because the men of the said city of *Chester* and county of the same city ought not, nor have been used to come out of the same city and county of the same city, to try any issue joined in the same city and county of the same city; therefore for trying the issue aforesaid, triable in the said city of *Chester* and county of the same city, let the record of the plaint aforesaid be sent to the chamberlain of our said lord the king of his county-palatine of *Chester*, or to his deputy there, so that the said chamberlain or his deputy, by writ of our said lord the king, under the seal of the said county-palatine duly to be made out, do cause the record aforesaid to be sent to the mayor of the said city of *Chester* and county of the same city, commanding the said mayor, that for trying the issue aforesaid, the said mayor do command the sheriffs of the said city of *Chester* and county of the same city, that they cause to come before the said mayor, at a certain day and place by the said mayor to be appointed, after the said record shall have been delivered to him, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. And when the verification and issue aforesaid shall have been there made and tried, then the said mayor shall send the record of the plaint aforesaid, together with every thing that shall have been done thereupon before him, to the said chamberlain or his deputy, so that the said chamberlain or his deputy may remit the same into the court of our said lord the king before the king himself (or in C. P. to his said majesty's justices) at *Westminster*, at a certain day which the said mayor shall appoint

(§ 18.)

The like, to the city of *Chester*.

CHAP. point to the said parties, to be in the same court here, to hear
XXIX. judgment thereupon, &c.

(§ 19.)
Suggestion of
the death of
one of the
plaintiffs, after
issuing the ori-
ginal writ, and
before declara-
tion.

- (to wit.) *C. D.* was attached (or summoned) to answer *A. B.* and *E. F.* of a plea of trespass on the case, &c. (or as the plea is); and thereupon the said *A. B.* by — his attorney comes, and the said *E. F.* comes not; and the said *A. B.* gives the court here to understand and be informed, that after the suing out of the original writ in this cause, and before the return thereof, and before this day, to wit, on — the said *E. F.* died, to wit, at — and the said *A. B.* there survived him; which the said *C. D.* does not deny, but admits the same to be true: And hereupon the said *A. B.* by his attorney aforesaid complains, that whereas, (&c.)

(§ 20.)
The like, be-
tween declara-
tion and plea,
in C. P. with
imparlances.

(After the declaration, proceed on a new line as follows:) And the said *C. D.* by — his attorney, comes and defends the wrong and injury, when, &c. and prays leave to imparl to the said declaration here, until — and it is granted to him, &c.; the same day is given to the said *A. B.* and *E. F.* here, &c. At which day come here, as well the said *A. B.* and *E. F.* by their attorney aforesaid, as the said *C. D.* by his attorney aforesaid: And the said *C. D.* prays further leave to imparl to the said declaration here, until — and it is granted to him, &c.; the same day is given to the said *A. B.* and *E. F.* here, &c. At which day come here, as well the said *A. B.* by the said — his attorney, as the said *C. D.* by his attorney aforesaid; and the said *E. F.* comes not: And hereupon the said *A. B.* gives the justices here to understand and be informed, that after the last continuance of the plea aforesaid, and before this day, to wit, on (&c.) at (&c.) the said *E. F.* died, and the said *A. B.* survived him; which allegation the said *C. D.* doth not deny, but admits the same to be true: Therefore let no further proceedings be had in this cause, at the suit of the said *E. F.* And the said *C. D.* defends the wrong and injury, when, &c. (here copy the plea, and go on with the proceedings, at the suit of the surviving plaintiff only.)

(§ 21.)
The like, of
the death of
one of the de-

And the said *C. D.* and *G. H.* by — their attorney, come and defend the wrong and injury, when, &c. and pray leave
to

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defendants, be-
tween declara-
tion and plea,
in K. B.

to imparl to the said declaration, until — next after —, (or by *original*, until — wheresoever, &c.) and it is granted to them, &c. the same day is given to the said *A. B.* at the same place: At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by his attorney aforesaid; and the said *G. H.* comes not: And hereupon the said *C. D.* gives the court here to understand and be informed, that after the last continuance of the plea aforesaid, and before this day, to wit, on — at — the said *G. H.* died, and the said *C. D.* survived him; which allegation the said *A. B.* doth not deny, but admits the same to be true: Therefore let all further proceedings in this cause against the said *G. H.* be stayed. And the said *C. D.* defends the wrong and injury, when, &c. (here copy the plea of the surviving defendant, and go on with the proceedings against him only.)

(After the end of the defendant's plea, proceed as follows): And the said *A. B.* and *E. F.* (plaintiffs) pray a day to imparl to the said plea, and then to reply to the same, and it is granted to them, &c.; and thereupon a day is given to the parties aforesaid, to come before our said lord the king at *Westminster*, on — next after — (or by *original*, on — wheresoever, &c.) that is to say, for the said *A. B.* and *E. F.* to imparl to the said plea, and then to reply to the same, &c. At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by his attorney aforesaid; and the said *E. F.* cometh not: And hereupon the said *A. B.* gives the court here to understand and be informed, that after the last continuance of the plea aforesaid, and before this day, to wit, on — at — the said *E. F.* died, and the said *A. B.* survived him; which allegation the said *C. D.* doth not deny, but admits the same to be true: Therefore let no further proceedings be had in this cause, at the suit of the said *E. F.* And as to the said plea of the said *C. D.* &c. (here go on with the replication.)

(§ 22.)
The like, of
the death of
one of the
plaintiffs, be-
tween plea and
replication.

— that since the issuing of the original writ in this cause, and before this day, to wit, on (&c.) at (&c.) the said *C. D.* took upon himself the order of knighthood, and then and

(§ 23.)
The like, of
the defendant's
being knighted.

there

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there became and was, and from thence hitherto hath been, and still is, Sir *C. D.* knight; which the said Sir *C. D.* doth not deny, (&c.)

(§ 24.)
Suggestion
that one of the
sheriffs is a
party to the
suit, and award
of venire to the
other.

And hereupon the said master and keepers, or wardens and commonalty of the mystery or art of braziers say, that *E. F.* esquire, now one of the sheriffs of the city of *London* aforesaid, is master of the said company of braziers; and for that reason, the said master and keepers, (&c.) pray the writ of our lord the king, to be directed to *G. H.* esquire, the other sheriff of the said city of *London*, to cause to come before our lord the king at *Westminster*, twelve, &c. to try the said issue (or issues) above joined between the parties aforesaid: And because the said *C. D.* doth not deny the aforesaid allegation of the said master and keepers, (&c.) but admits the same to be true, it is granted to them, &c.: Therefore it is commanded to the said *G. H.* the said other sheriff of the city of *London* aforesaid, that he cause to come, &c. (*ante*, p. 275, 6.)

(§ 25.)
Suggestion by
the *East-India*
Company,
plaintiffs, that
one of the sheriffs is interested as a proprietor of stock, and award of venire to the other.

And hereupon the said united company say, that *E. F.* and *G. H.* esquires are sheriffs of the city of *London*; and that the said *E. F.* one of the said sheriffs, in his own right, is proprietor of and interested in a share and proportion of the principal stock of the said united company, to the value of —*l.* and is a member of the said united company: And this the said united company are ready to verify; and for this cause, the said united company pray a writ, to be directed to the said *G. H.* esquire, the other sheriff of the said city of *London*, to cause to come twelve, &c. to try the said issue (or issues) above joined between the parties aforesaid: And because the said *C. D.* doth not deny the aforesaid allegation of the said united company, but admits the same to be true, it is granted to them, &c.: Therefore it is commanded to the said *G. H.* the said other sheriff of the city of *London* aforesaid, that he cause to come, &c. (*ante*, p. 275, 6.)

(§ 26.)
Suggestion that
the sheriff is a
party, and
award of venire
to the coroner.

And because it is suggested to the court of our lord the king now here, (or in *C. P.* to the justices, or in the Exchequer, to the barons here,) that the said *A. B.* (the plaintiff) is sheriff of — aforesaid; it is therefore commanded to the coroner

coroner of the said county of —, that he cause to come, &c.
(*ante*, p. 275, 6.)

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And hereupon the said *A. B.* says, that — now sheriff of the said county of — is of kin, that is to say, brother to the said *C. D.* and for this cause the said *A. B.* prays a writ of our lord the king of *venire facias*, to be directed to the coroner of the said county of —: And because the said *C. D.* doth not deny the aforesaid allegation of the said *A. B.* it is granted to him, &c.: Therefore it is commanded to the coroner of the said county of —, that he cause to come, &c.
(*ante*, p. 275, 6.)

(§ 27.)
Suggestion that the sheriff is of kin to the defendant, and award of *venire* to the coroner.

And hereupon the said *A. B.* says, that — and — now sheriffs of the city of *Coventry* and county of the same city, are bailiffs of the city of *Coventry* aforesaid, and therefore parties to the matter aforesaid, above put in issue between him the said *A. B.* and the said *C. D.*; and that — now coroner of the said city of *Coventry* and county of the same city, is one of the said commonalty of the city of *Coventry* aforesaid, and therefore likewise a party to the said matter, above put in issue between the said *A. B.* and the said *C. D.* as aforesaid; and the said *A. B.* prays a writ of our lord the king, to be directed to two discreet and indifferent persons, residing within the said county of the city of *Coventry* aforesaid, by the court here to be elected, to cause to come twelve free and lawful men of the neighbourhood of *IV.* in the said county of the city of *Coventry* aforesaid, to try the issue aforesaid, above joined between the parties aforesaid: And because the said *C. D.* doth not deny the allegation aforesaid; therefore it is commanded to — and —, with the assent of the parties aforesaid, by the court here elected and named, that they cause to come, &c. (*ante*, p. 275, 6.)

(§ 28.)
Suggestion that the sheriffs and coroner are interested, and award of *venire* to *elisors*.

But because it is suggested and proved, and manifestly appears to the court (or in C. P. to the justices, or in the Exchequer, to the barons) here, that the said issue, above joined between the parties aforesaid, cannot be fairly and impartially tried by a jury of the said town and county of the town of —; therefore let a jury of the county of — being the county next adjoining to the said town and county of the town

(§ 29.)
Suggestion for a trial in an adjoining county.

of

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of — thereupon come, &c. (or by *original*, in K. B. or C. P. the sheriff is commanded, &c.)

(§ 30.)
The like, on
stat. 38 Geo.
III. c. 52. § 1.
where the ve-
nue is laid in
a city, or town
corporate.

And hereupon the said *A. B.* (or *C. D.*) prays the court of our said lord the king before the king himself now here, (or in C. P. the justices here,) that the issue above joined between the said parties, may be tried in the county of —, being the county next adjoining to the city (or town and county of the town) of — aforesaid, and not within the same city, (or town and county); and that proper writs of *venire* and *distingas* may be awarded in that behalf, according to the form of the statute in such case made and provided; and it is granted to him, &c. Therefore, for the trial of the said issue above joined between the parties aforesaid, let a jury of the said county of — come before our lord the king at *Westminster*, on — next after — by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the said parties there, &c. (or by *original*, in K. B. or C. P. the sheriff is commanded, &c.)

(§ 31.)
Award of *venire*
to the sheriff of
the next *En-*
glish county,
where the ve-
nue is laid in
Wales.

And because the said issue (or issues) above joined between the parties aforesaid, ought to be tried by men of the next *English* county to the said county of —, and not elsewhere; and because the county of — is the next *English* county to the said county of —; therefore let a jury of the said county of — thereupon come, &c. (or by *original*, in K. B. or C. P. the sheriff is commanded, &c.)

(§ 32.)
The like,
where the ve-
nue is laid in
Berwick upon
Tweed.

And because the borough of *Berwick* is a place, where the king's writ of *venire facias* to summon a jury to try the said issue, doth not run; and because the burgesses of the said borough, by reason of their privileges, ought not to be put upon any jury to try the said issue out of the said borough, but the said issue ought to be tried by a jury of the county of *Northumberland*, which is the next adjacent county to the said borough of *Berwick*; which allegations of the said — are not denied by the said —; therefore let a jury of the said county of *Northumberland* thereupon come, &c. (or by *original*, in K. B. or C. P. the sheriff is commanded, &c.)

(§ 33.)
Rule to return
paper-book, in
K. B.

Unless the defendant receive this paper-book, and return the same on the — day of — to be enrolled, let a writ be

be made (if the judgment would be interlocutory; or if final, "let a rule be entered").

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Mr. *E. F.*

I have struck out the rejoinder, and left a demurrer to the plaintiff's replication in the office,

(§ 34.)
Notice of having struck out rejoinder, &c. in K. B.

In the Common Pleas,

B. against *D.* (§ 35.)

Take notice, that I do not receive the issue delivered by you in this cause, but consider the same as a replication only. I have therefore struck out the *similiter*, and return you the same, and shall rejoin in due time.

The like, in C. P. where the issue is delivered, without giving a rule to rejoin.

Your's, &c.

G. H. defendant's attorney,
(or agent.)

— 18 —

To Mr. *E. F.* plaintiff's attorney.

B. } — next after — is given to the plaintiff to en-
v. } ter the issue.
D. }

(§ 36.)
Rule to enter the issue, in K. B.

Entered.

B. } Unless the plaintiff enter the issue on record, on
v. } — next after —, let the same be entered on the
D. } part of the defendant.

(§ 37.)
The like, for defendant to enter it, in K. B.

Entered.

In the Common Pleas, the rule is, that "unless the plaintiff within four days next after notice, shall cause the issue joined in — term last, to be entered," &c.

(§ 38.)
The like, in C. P.

(Enter the warrants of attorney for both parties, as before, p. 210.; and after copying the issue, to the end of the award of the *venire facias*, proceed as follows :)

(§ 39.)
Judgment of non-pros, for not entering the issue, in K. B.

At which day, before our said lord the king at *Westminster*, came as well the said *A. B.* as the said *C. D.* by their attorneys aforesaid; and the sheriff did not send the writ of our said lord the king to him in that behalf directed, nor did he do any thing thereupon: Therefore, as before, let a jury there-
upon

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upon come before our said lord the king at *Westminster*, on — next after —, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid at the same place: At which day, before our said lord the king at *Westminster*, came the parties aforesaid, by their attornies aforesaid; and the sheriff did not send the writ of our said lord the king to him in that behalf directed, nor did he do any thing thereupon: Whereupon the said *C. D.* prays the court of our said lord the king now here, that the said *A. B.* may enter the said issue above joined between the parties aforesaid: And hereupon the said *A. B.* is ordered by the court of our said lord the king now here, that he enter the said issue, on — next after — in this same term, on the peril attending the neglect thereof; the same day is given to the said *C. D.* there, &c. At which day, before our said lord the king at *Westminster*, comes the said *C. D.* by his said attorney; and the said *A. B.* although solemnly called, comes not, but makes default, nor hath he entered the said issue above joined in the plea aforesaid: Therefore it is considered by the court here, that the said *A. B.* take nothing by his said bill, (or writ,) but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. And it is further considered, &c. (as before, p. 268.)

Judgment
signed. (&c.)

(p. 40.)
The like, in
C. P.

— to wit. *C. D.* was attached to answer unto *A. B.* &c. (here copy the issue, to the end of the award of the *venire facias*, and proceed as follows:) At which day, come here the parties aforesaid, by their attornies aforesaid; and the sheriff did not send the writ of our said lord the king to him in that behalf directed, nor did he do any thing thereupon: Whereupon the said *C. D.* prays the justices here, that the said *A. B.* may enter the said issue, above joined between the parties aforesaid, in the plea aforesaid: And hereupon the said *A. B.* is ordered, by a certain rule of the said justices here, that he enter the said issue within four days next after notice of that rule, to be given to his attorney or agent in the plea aforesaid: And although notice of the said rule was afterwards, to wit, on the — day of — in this same term, given to the said attorney of and for the said *A. B.* in the plea

plea aforesaid; yet the said *A. B.* did not, within four days next after notice of the said rule so given as aforesaid, enter the said issue so joined as aforesaid, but therein failed and made default; nor hath the said *A. B.* at any time hitherto entered the said issue above joined, between the parties aforesaid, in the plea aforesaid: Therefore it is considered, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. And it is further considered by the justices here, that the said *C. D.* do recover against the said *A. B.* — *l.* for his costs and charges by him laid out about his defence in this behalf, by the said justices here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

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Judgment
signed, (&c.)

Execution.

As yet of — term, (the term of which issue is joined,) in the — year of the reign of king *George* the Third. Witness *Edward* Lord *Ellenborough*.

(§ 41.)

Entry of issue
by bill, in K. B.

— to wit. *A. B.* puts in his place *E. F.* his attorney, against *C. D.* in a plea of trespass on the case, (or of debt, &c. as the plea is).

— to wit. *C. D.* puts in his place *G. H.* his attorney, (or if common bail was filed by the plaintiff, according to the statute, say: “The said *C. D.* in person,”) at the suit of the said *A. B.* in the plea aforesaid.

— to wit. Be it remembered, &c. (here copy the whole of the issue, to the end of the award of the *venire facias*; and if the cause be not tried the same term issue is joined, or in the vacation after that term, it is continued from term to term, as follows:)

At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attorneys aforesaid; and the sheriff hath not sent the writ of our said lord the king to him in that behalf directed, nor hath he done any thing thereupon: Therefore, as before, let a jury thereupon come before our said lord the king at *Westminster*, on — next after — by whom, &c. and who neither, &c. to recognize, &c. be-

(§ 42.)

Continuance of
the *venire*, by
vicecomes non
misit breve, by
bill, in K. B.

CHAP. cause as well, &c. ; the same day is given to the parties afore-
XXIX. said, at the same place.

(§ 43.)
Entry of issue
by original, in
K. B.

(Enter the warrants of attorney, as by *bill*; but instead of a *memorandum*, go on immediately with the declaration, as follows:)

— to wit. *C. D.* was attached (or summoned) to answer *A. B.* &c. (copying the whole of the issue as before; and if the cause be not tried the same term issue is joined, or in the vacation after that term, the continuance is as follows:)

(§ 44.)
Continuance of
venire, by *vice-*
comes non misit
breve, by origi-
nal, in K. B.

At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid; and the sheriff hath not sent the writ of our said lord the king to him in that behalf directed, nor hath he done any thing thereupon: Therefore, as before, the sheriff is commanded, that he cause to come before our said lord the king, on — where-soever our said lord the king shall then be in *England*, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. ; the same day is given to the parties aforesaid, at the same place.

(§ 45.)
Entry of issue,
in C. P.

In the Common Pleas.

— term, in the — year of the reign of king
George the Third.

— to wit. *C. D.* was attached (or summoned) to answer *A. B.* &c. (copying the whole of the issue, to the end of the award of the *venire facias*; and if the cause be not tried the same term issue is joined, or in the vacation after that term, the continuance is as follows:)

(§ 46.)
Continuance of
the *venire*, by
vicecomes non
misit breve, in
C. P.

At which day, come here the parties aforesaid, by their attornies aforesaid; and the sheriff hath not sent the writ of our said lord the king to him in that behalf directed, nor hath he done any thing thereupon: Therefore, as before, the sheriff is commanded, that he cause to come here, in — twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.

In the Common Pleas.

— term, (&c.).

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XXIX.
(§ 47.)

Entry of issue,
of a subsequent
term, against
an attorney, in
C. P.

Elsewhere, as it appeareth in — term last past, on the — roll, it is thus contained : * — (to wit). Be it remembered, that on the — day of — in this same term, *A. B.* came here into court, by *E. F.* his attorney, and exhibited to the justices of our lord the king of the bench here, his certain bill against *C. D.* gentleman, one of the attorneys of the court of our said lord the king of the bench here, being present here in court in his proper person ; the tenor of which said bill follows in these words, that is to say : To the justices of our lord the king of the bench. — to wit. *A. B.* complains of *C. D.* &c. (here copy the bill *verbatim*, adding pledges, and proceed on a new line as follows :)

And the said *C. D.* in his proper person, comes and defends the wrong and injury, when, &c. and prays leave to imparl to the bill aforesaid here, until — next after — in this same term ; and he hath it, &c. At which day come here, as well the said *A. B.* by his said attorney, as the said *C. D.* in his proper person ; and the said *A. B.* prays that the said *C. D.* may answer his said bill, &c. and the said *C. D.* as before, defends the wrong and injury, when, &c. and says that he did not undertake or promise, in manner and form as the said *A. B.* hath above thereof complained against him ; and of this he puts himself upon the country ; and the said *A. B.* doth the like. Therefore the sheriff is commanded, that he cause to come here, on — next after —, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.

(After the award of the *venire facias*, or continuance by *vicecomes non misit breve*, proceed as follows :)

(§ 48.)
Succession of
the death of
one of several
plaintiffs or de-
fendants, after
issue joined,
and before
trial.

Before which day, to wit, on — the said *E. F.* (or *G. H.*) died, to wit, at — and the said *A. B.* (or *C. D.*) there survived him : And now at this day, before our said lord the king at *Westminster*, (or in C. P. before the justices, or in the Exchequer, before the barons here,) come as well the said

* This mode of entry, in the Common Pleas, is only used where the proceedings are by *bill*, against a member of the House of Commons, or attorney, &c. or by *original*, where an original writ is actually sued out, and the issue is entered of a term subsequent to the bill, or declaration.

CHAP. — as the said — (the survivors) by their respective attor-
 XXIX. nies aforesaid; and the sheriff hath not sent the writ of our
 said lord the king to him in that behalf directed, nor hath he
 done any thing thereupon: Therefore, as before, let a jury
 thereupon come, &c. (or by *original*, in K. B. or C. P. the
 sheriff is commanded, &c.)

(§ 49.)
 Docket-paper,
 in K. B.

The entry (or further entry) of *E. F.* gentleman, one, &c. of
 the term of — 54 *Geo.* III. 18—.

- (*Venue.*) Issue joined in *case*, between
A. B. plaintiff, and *C. D.* de- *Roll*
 fendant, on a plea of *non as-*
sumpsit, (or as the case may
 be).
 (*Venue.*) Issue joined in *debt*, between
A. B. plaintiff, and *C. D.* de-
 fendant, on a plea of *nil de-*
bet, (or *non est factum*).
 (*Venue.*) Issue joined in *trespass*, be-
 tween *A. B.* plaintiff, and *C.*
D. defendant, on a plea of
 not guilty, (or as the case
 may be).
 (*Venue.*) Issue of *nul tiel record* in *case*,
 between *A. B.* plaintiff, and
C. D. defendant.
 (*Venue.*) Entry of demurrer book, in a
 plea of trespass on the case,
 between *A. B.* plaintiff, and
C. D. defendant.

(§ 50.)
 Entries on
 docket-roll, in
 C. P.

- Non assumpsit*, (or, did not undertake,) in *case*.
 (*Venue.*) *A. B.* plaintiff, } *R.*
C. D. defendant. } —
Nil debet, (or, doth not owe,) in *debt*.
 (*Venue.*) *A. B.* plaintiff, } —
C. D. defendant. } —
Non est factum, in *debt*.
 (*Venue.*) *A. B.* plaintiff, } —
C. D. defendant. } —

Nul

Nul tiel record, (or, no such record,) in *case*.
(*Venue*.) *A. B.* plaintiff, } —
 C. D. defendant. }

The like, in *debt*.
(*Venue*.) *A. B.* plaintiff, } —
 C. D. defendant. }

Not guilty, in *trespass*, (or *case*).
(*Venue*.) *A. B.* plaintiff, } —
 C. D. defendant. }

Special issue in *case*, (or *debt*, &c.)
(*Venue*.) *A. B.* plaintiff, } —
 C. D. defendant. }

term, in the year of the reign of king (§ 51.)
George the Third. Feigned issue,

on a question
respecting the
receipt of mo-
ney, in K. B.

— to wit. Be it remembered, that on — next after —
in this same term, before our lord the king at *Westminster*,
comes *A. B.* by — his attorney, and brings into the court of
our said lord the king before the king himself now here, his
certain bill against *C. D.* being in the custody of the marshal of
the marshalsea of our said lord the king before the king him-
self, of a plea of trespass on the case upon promises; and
there are pledges for the prosecution, to wit, *John Doe* and
Richard Roe; which said bill follows in these words, that is to
say; — to wit. *A. B.* complains of *C. D.* being in the cus-
tody of the marshal of the marshalsea of our lord the now
king before the king himself; for that whereas heretofore, to
wit, on — at — a certain discourse was had and moved by
and between the said *A. B.* and the said *C. D.*; and in that
discourse a certain question then and there arose, whether the
said *C. D.* did on the — day of — 18 — or at any other
time, receive for the use or on account of *E. F.* deceased, the
sum of — *l.* or any other and what sum of money; and
thereupon heretofore, to wit, on the said — at — afore-
said, in consideration that the said *A. B.* at the special in-
stance and request of the said *C. D.* had then and there paid
to him the said *C. D.* the sum of ~~the~~ pounds of lawful money
of *Great Britain*, he the said *C. D.* undertook and then and
there

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XXIX.

there faithfully promised the said *A. B.* to pay him the sum of ten pounds, of like lawful money, in case he the said *C. D.* did on the said — or at any other time, receive for the use or on the account of the said *E. F.* the said sum of —*l.* or any other sum of money whatsoever: And the said *A. B.* in fact saith, that the said *C. D.* did on the said — receive for the use and on the account of the said *E. F.* the said sum of —*l.* to wit, at — aforesaid; whereof the said *C. D.* afterwards, to wit, on the same day and year first above-mentioned, there had notice: Nevertheless the said *C. D.* not regarding his said promise and undertaking, so by him made in manner and form aforesaid, but contriving and fraudulently intending craftily and subtilly to deceive and defraud the said *A. B.* in this behalf, hath not as yet paid the said sum of ten pounds, or any part thereof, to the said *A. B.* (although often requested so to do); but he to do this hath hitherto wholly refused, and still doth refuse; to the damage of the said *A. B.* of —*l.* and therefore he brings his suit, &c.

And the said *C. D.* by — his attorney, comes and defends the wrong and injury, when, &c. and says, that the said *A. B.* ought not to have or maintain his aforesaid action thereof against him; because he says, that though true it is, that such a discourse was had and moved by and between the said *A. B.* and the said *C. D.* and that such question did arise, and he the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath above in his said declaration in that behalf alledged: For plea in this behalf, the said *C. D.* saith, that he the said *C. D.* did not on the said — or at any other time, receive for the use or on the account of the said *E. F.* the said sum of —*l.* or any other sum of money whatsoever, in manner and form as the said *A. B.* hath above in his said declaration in that behalf alledged; and of this he the said *C. D.* puts himself upon the country; and the said *A. B.* doth the like: Therefore let a jury thereupon come before our lord the king at *Westminster*, on — next after —, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, at the same place.

CHAP. XXX.

Of the CONCILIUM, and JUDGMENTS on DEMURRER.

— on (or next after) — in the — year of king (§ 1.)
George the Third. Rule for
concilium on
demurrer, in
K. B.

B. } — next after — is appointed to hear the coun-
v. } sel for both parties. Upon the motion of Mr. —.
D. } By the Court.

As yet of — term, *&c.* (§ 2.)
Judgment for
the plaintiff,
on demurrer to
a declaration
in *assumpsit*, in
K. B.
(Entry of warrants of attorney as before, p. 210. or 217.)
— (to wit.) Be it remembered, *&c.* (here copy the de-
murrer-book *verbatim*, and then proceed as follows :) At
which day, before our said lord the king at *Westminster*, come
as well the said *A. B.* as the said *C. D.* by their respective
attornies aforesaid; whereupon all and singular the premises
being seen, and by the court of our said lord the king now
here fully understood, and mature deliberation being there-
upon had, it appears to the said court here, that the decla-
ration aforesaid, and the matters therein contained, are suf-
ficient in law for the said *A. B.* to have and maintain his
aforesaid action thereof against the said *C. D.*; wherefore the
said *A. B.* ought to recover against the said *C. D.* his da-
mages by reason of the premises: And hereupon, *&c.* (as
before, p. 225, 6. if the damages are assessed by the court; or
if they are assessed on a writ of inquiry, “But because it is
unknown,” *&c.* (as before, p. 229.; or in *debt*, the judgment,
for which *vide ante*, p. 218. immediately follows the finding
that the declaration is sufficient.)

(To the end of the demurrer-book, and then as follows :) (§ 3.)
The like,
C. P.
At which day come here, as well the said *A. B.* as the said
C. D. by their respective attornies aforesaid; whereupon all
and singular the premises being seen, and by the justices
here fully understood, and mature deliberation being there-
upon

CHAP. upon had, it appears to the said justices here, that the declaration aforesaid, &c. (as in the last, *mutatis mutandis*.)

(§ 4.)
The like, after continuances, on demurrer to one count of a declaration in debt, and award of venire to try the issue on other counts, and assess damages on the first, with a *quid taxatio*, in K. B.

Curia advisari vult.

Piccones non nisi &c.

(To the end of the issue and demurrer-book, and then as follows :) At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid; and the sheriffs have not sent the writ of our said lord the king to them in that behalf directed, nor have they done any thing thereupon: Therefore as well to try the said issue above joined between the said parties, to be tried by the country, as to inquire of and assess the damages by reason of the detention of the said debt in the said first count mentioned, in case judgment shall be given for the said *A. B.* as to the premises whereon the said parties have above put themselves upon the judgment of the court, let a jury, as before, thereupon come before our said lord the king at *Westminster*, on — next after — by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, at the same place. And because the court here are not yet advised what judgment to give in the premises, whereon the said parties have put themselves upon the judgment of the court, a day is given to the said parties, before our said lord the king at *Westminster*, on the said — next after — to hear the judgment of the said court thereupon; for that the said court here is not yet advised thereof, &c. At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid; and the sheriffs have not sent the writ of our said lord the king to them in that behalf directed, nor have they done any thing thereupon: And hereupon all and singular the premises, whereof the said parties have put themselves on the judgment of the court, being seen, and by the court here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the said first count of the said declaration, and the matters therein contained, in manner and form as the same are above stated and set forth, are sufficient in law for the said *A. B.* to have and maintain his aforesaid action thereof against the said *C. D.* Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt of — *l.* in the said first count of the said declaration mentioned, together with his

his damages by him sustained on occasion of the detention thereof, &c.: But because it is unknown to the court here, what damages the said *A. B.* hath sustained by reason thereof, and because it is convenient and necessary that there be but one taxation of damages in this suit; therefore let the giving of judgment in this behalf against the said *C. D.* be stayed, until the trial of the said issue above joined between the said parties, to be tried by the country; and as well to try the said last-mentioned issue, as to inquire of and assess the damages which the said *A. B.* hath sustained by reason of the detention of the said debt in the said first count of the said declaration mentioned, let a jury thereupon come before our said lord the king at *Westminster*, on — next after — by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, at the same place.

CHAP.

XXX.

Award of venire,
with a *unica*
taxatio, &c.

(To the end of the issue and demurrer book, and then as follows :) At which day, come here the parties aforesaid, by their attornies aforesaid: Whereupon all and singular the premises being seen, and by the justices here fully understood, and mature deliberation being thereupon had, it appears to the said justices here, that the said first count of the said declaration, and the matters therein contained, in manner and form as the same are above stated and set forth, are sufficient in law for the said *A. B.* to have and maintain his aforesaid action against the said *C. D.* in respect of the premises in the said first count mentioned: And hereupon the said *C. D.* relinquishing his said plea by him above pleaded, as to the second third and last counts of the said declaration, says that he cannot deny the action of the said *A. B.* nor but that he the said *C. D.* doth owe to the said *A. B.* the said several sums of money in those counts respectively mentioned, and above demanded: And upon this the said *A. B.* freely here in court remits to the said *C. D.* the said last-mentioned sums of money, and all damages sustained by the said *A. B.* on occasion of the detention thereof; and he prays judgment for the said sum of —*l.* in the said first count of the said declaration mentioned, together with his damages by him sustained on occasion of the detention thereof, to be adjudged to him, &c. Therefore it is considered, that the said *A. B.*

(§ 5.)

The like, on
demurrer to the
first count of a
declaration,
with a *relatâ*
*verificatio*e, and
restitutio damna,
as to the other
counts, in C. P.Judgment
signed, (&c.)

do

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mercy.

do recover against the said *C. D.* the said sum of — *l.* in the said first count mentioned, and his damages by him sustained on occasion of the detention thereof to — *l.* by the justices here adjudged to the said *A. B.* and with his assent; and the said *C. D.* in mercy, &c. And let the said *C. D.* be acquitted of the said several sums of money and damages, so remitted as aforesaid, &c.

(§ 6.)

The like, on demurrer to a plea to the first second and third counts of the declaration, on which damages are assessed by the court, and a *solle prosequi* as the remaining counts, in *N. B.*

(After copying the demurrer-book to the end, proceed as follows:) At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attorneys aforesaid: Whereupon all and singular the premises being seen, and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the said plea of the said *C. D.* by him lastly above pleaded, as to the said first, second and third counts of the said declaration, and the matters therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law to bar the said *A. B.* from having and maintaining his aforesaid action thereof against him the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages by him sustained on occasion of the not performing of the said promises and undertakings in the said first, second and third counts of the said declaration mentioned: And hereupon the said *A. B.* says, that he will not further prosecute his suit against the said *C. D.* on occasion of the not performing of the said promises and undertakings, in the said fourth, fifth and last counts of the said declaration mentioned: Therefore let the said *C. D.* be acquitted as to those last-mentioned promises and undertakings, and go thereof without day, &c. And the said *A. B.* prays judgment, and his damages by him sustained on occasion of the not performing of the said several promises and undertakings in the said first, second and third counts of the said declaration mentioned, to be adjudged to him, &c. And because it is suggested and proved, and manifestly appears to the court here, that the said *A. B.* hath sustained damages, on occasion of the not performing of the said last-mentioned promises and undertakings, to the sum of — *l.* besides his costs and charges by him about his suit in this behalf expended; therefore it is considered, that the said

Judgment
signed, (&c.)

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XXX.

said *A. B.* do recover against the said *C. D.* his damages aforesaid, to the said sum of —*l.* and also, —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to —*l.* and the said *C. D.* in mercy, &c.

Mer. y.

(To the end of the demurrer-book, and then as follows:)

(§ 7.)

At which day, before our said lord the king at *Westminster*, come (or in the Common Pleas and Exchequer “At which day were here”) the parties aforesaid by their attornies aforesaid; and hereupon all and singular the premises being seen, and by the court of our said lord the king now here (or in C. P. by the justices or in the Exchequer by the barons here) fully understood, and mature deliberation being thereupon had, it appears to the said court (or to the said justices or barons) here, that the said plea above pleaded by the said *C. D.* in manner and form aforesaid, and the matters therein contained, are not sufficient in law to bar the said *A. B.* from having and maintaining his said action against the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages by reason of the premises: And hereupon, &c. (or, “But because it is unknown,” &c. as directed before, p. 295.)

The li. c. on demurrer to a plea, in *assumpsit*.

For the form of a judgment for the plaintiff, on demurrer to a plea in *debt* on bond, and suggestion of breaches, &c. on the statute 8 & 9 *W. III. c. 11. § 8.* see the very excellent edition of *Saunders*, by Mr. Serjeant *Williams*, 1 *V.* p. 28. n. 1.

(To the end of the demurrer-book, and then as follows:)

(§ 8.)

At which day, before our said lord the king at *Westminster*, come (or, in the Common Pleas and Exchequer, “At which day come here,”) the parties aforesaid, by their attornies aforesaid: Whereupon all and singular the premises being seen, and by the court of our said lord the king now here, (or in C. P. by the justices, or in the Exchequer, by the barons here) fully understood, and mature deliberation being thereupon had, it appears to the said court (or to the said justices, or barons) here, that the said plea, in manner and form aforesaid

The like, on demurrer to a replication, in *assumpsit*.

said

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said by the said *A. B.* above in reply pleaded, and the matters therein contained, are sufficient in law for him the said *A. B.* to have and maintain his aforesaid action thereof against the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages by reason of the premises: And hereupon, &c. (or, "But because it is unknown," &c. as directed before, p. 205)

(§ 9.)

The like, on demurrer to a replication in debt on bond, with a suggestion of breach, &c. on statute 8 & 9 W. III. c. 11. § 8.

(To the end of the demurrer-book, and then as follows:)

At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid: Whereupon all and singular the premises being seen, and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the said plea, in manner and form aforesaid by the said *A. B.* above in reply pleaded, and the matters therein contained, are sufficient in law for him the said *A. B.* to have and maintain his aforesaid action thereof against the said *C. D.*: Therefore it is considered, &c. (final judgment in *debt*, as before, p. 218. proceeding as follows:) And hereupon the said *A. B.* according to the form of the statute, (&c.) says, that the said writing obligatory in the said declaration mentioned, was made and given by the said *C. D.* under and subject to a certain condition thereto subscribed, whereby, after reciting, (&c.) it was declared, (&c.) And the said *A. B.* further saith, &c. (suggesting the breaches of the condition.) And hereupon the said *A. B.* prays the writ of our said lord the king, to be directed to the sheriff of —, and to the right honourable *Edward* Lord *Ellenborough*, his majesty's chief-justice, assigned to hold the pleas in the court of our said lord the king before the king himself, commanding the said sheriff, that he cause to come before the said chief-justice, on — the — day of — next, at *Westminster-hall* in the county of *Middlesex*, twelve, &c. by whom, &c. and who neither, &c. to inquire the truth of the said breaches above assigned, and to assess the damages thereby sustained by the said *A. B.*; and also that it be commanded in the said writ, to the said chief-justice, that he make a return thereof, to the said court of our said lord the king before the king himself at *Westminster*, on — next after —, and it is granted

granted to him, &c.; the same day is given to the said *A. B.* at the same place.

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(As in the last, to the end of the finding by the court, that the replication is sufficient in law, and then as follows:) Wherefore the said *A. B.* ought to recover against the said *C. D.* his said debt, together with his damages by him sustained on occasion of the detention thereof, &c.: But because it is convenient and necessary that judgment should not be given hereupon, until the truth of the aforesaid breaches of the said condition of the said writing obligatory above assigned, shall have been inquired into, and the damages which the said *A. B.* hath sustained thereby, shall have been assessed by a jury of the country in that behalf, according to the form of the statute in such case made and provided; therefore let judgment hereupon be stayed, in the mean time. And the said *A. B.* having prayed the writ of our said lord the king, to be directed to the sheriff of —, and to his majesty's justices assigned to take the assizes in the said county, to inquire of the truth of the aforesaid breaches of the said condition of the said writing obligatory above assigned, and to assess the damages which the said *A. B.* hath sustained thereby; therefore, according to the form of the statute in such case made and provided, the said sheriff is commanded, that he summon twelve good and lawful men of his bailiwick, to appear before his said majesty's said justices of assize, on — the — day of — next, at — in the said county of —, to inquire diligently on their oath of the truth of the premises, and to assess the damages which the said *A. B.* hath sustained by reason of the aforesaid breaches; and that he have on that day, before his said majesty's said justices of assize, the writ of our said lord the king to him thereupon directed: It is likewise commanded to his said majesty's said justices of assize, that they certify the inquisition before them taken, to our said lord the king at *Westminster*, on — next after —, together with the names of those by whose oath such inquisition shall be taken; and that they also have there then that writ; the same day is given to the parties aforesaid, at the same place. At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid; and the said justices of assize

(§ 10.)
The like, another way, where the breaches are assigned in the replication, and final judgment is stayed, until after the damages are assessed.

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XXX.

Judgment
signed, (&c.).

Mercy.

now here return a certain inquisition indented, taken before them, by virtue of the said writ, on — the — day of — next after the issuing of the said writ, at — aforesaid, in the county aforesaid, upon the oath of twelve good and lawful men of the said county; by which it is found, that the several breaches of the said condition of the said writing obligatory above assigned are, and each and every of them is, true, and that the said *A. B.* hath sustained damages, on occasion of the aforesaid breaches, to the sum of — *l.* besides his costs and charges by him about his suit in this behalf expended: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and also — *l.* for his damages which he hath sustained, as well on occasion of the detaining the said debt, as for his costs and charges by him about his suit in this behalf expended, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; and the said *C. D.* in mercy, &c.

(§ 11.)

The like, on demurrer to a replication to one of several pleas in trespass, with a *relicta verificationes* as to another.

(To the end of the demurrer-book, and then as follows :) At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid: Whereupon all and singular the premises being seen, and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the said plea by the said *A. B.* in manner and form aforesaid above in reply pleaded, to the said plea of the said *C. D.* by him lastly above pleaded in bar, as to the trespasses in the introductory part of that plea mentioned, and the matters therein contained, are sufficient in law for him the said *A. B.* to have and maintain his aforesaid action thereof against the said *C. D.* And hereupon the said *C. D.* relinquishing his said plea by him first above pleaded, says that he cannot deny the action of the said *A. B.* nor but that he the said *A. B.* ought to recover against the said *C. D.* his damages by reason of the premises; wherefore the said *A. B.* ought to recover his damages against the said *C. D.* But because it is unknown, &c. (as before, p. 229, 30.)

(§ 12.)

Judgment for the defendant,

(After copying the demurrer-book to the end, proceed as follows :) At

At

At which day, before our said lord the king at *Westminster*, come (or, in the Common Pleas and Exchequer, "At which day come here,") the parties aforesaid, by their attorneys aforesaid: Whereupon all and singular the premises being seen, and by the court of our said lord the king now here (or in C. P. by the justices, or in the Exchequer, by the barons here) fully understood, and mature deliberation being thereupon had, it appears to the said court (or, to the said justices, or barons) here, that the declaration (or, replication) aforesaid, and the matters therein contained, in manner and form as the same are above stated and set forth, are not sufficient in law for the said *A. B.* to have or maintain his aforesaid action thereof against the said *C. D.*: Therefore it is considered, that the said *A. B.* take nothing by his said bill (or writ), but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. And it is further considered by his majesty's court here, that the said *C. D.* do recover against the said *A. B.* —-l. for his costs and charges by him laid out about his defence in this behalf, by the court of our said lord the king now here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

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XXX.

on demurrer to
a declaration,
or replication.

Judgment
signed, (&c.)

Execution.

(To the end of the demurrer-book, and then as follows:)

At which day, before our said lord the king at *Westminster*, come (or, in the Common Pleas and Exchequer, "At which day come here,") the parties aforesaid, by their attorneys aforesaid: Whereupon all and singular the premises being seen, &c. (as in the last), it appears to the said court (or in C. P. to the said justices, or in the Exchequer, to the said barons) here, that the said plea above pleaded by the said *C. D.* in manner and form aforesaid, (or, the said rejoinder of the said *C. D.* by him above made), and the matters therein contained, are sufficient in law to bar the said *A. B.* from having or maintaining his said action against the said *C. D.*: Therefore it is considered, that the said *A. B.* take nothing by his said bill, (or writ,) but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. And it is further considered, &c. (as above.)

(§ 13.)

The like, on
demurrer to a
plea, or re-
joinder.

Judgment
signed, (&c.)

CHAP. XXXI.

Of the Issue, and Trial by the Record; and Judgments thereon.

(§ 1.)
Plea of *nil tial*
record, in *d. bt*
on judgment or
recognizance.

D. } **AND** the said *C. D.* by — his attorney, comes and
ats. } defends the wrong and injury, when, &c. and saith
B. } that there is not any record of the supposed recovery
(or recognizance) in the said declaration mentioned, remain-
ing in the said court of our said lord the king before the king
himself, (or in *C. P.* in the said court of our said lord the king
of the bench aforesaid,) at *Westminster* aforesaid, as the said
A. B. hath above in his said declaration in that behalf al-
ledged: And this he the said *C. D.* is ready to verify; where-
fore he prays judgment, if the said *A. B.* ought to have or
maintain his aforesaid action thereof against him, &c.

(§ 2.)
Replication
thereto, where
the record is in
the same court.

B. } And the said *A. B.* saith that he, by reason of any
v. } thing by the said *C. D.* in his said plea above alledged,
D. } ought not to be barred from having and maintaining his
aforesaid action thereof against him: Because he saith, that
there is such a record of the supposed recovery (or recogni-
zance) in the said declaration mentioned, remaining in the
said court, (&c.) as the said *A. B.* hath above in his said de-
claration in that behalf alledged: And this he the said *A. B.*
is ready to verify by the said record, of — term, in the —
year of the reign of our said lord the now king, in the —
roll; and he prays that the term and roll aforesaid may be
seen and inspected by the court of our lord the king now here,
(or in *C. P.* by the justices here:) And because the said
court (or in *C. P.* the said justices) here are not yet advised,
what judgment to give of and upon the premises, a day is
therefore given to the parties aforesaid, before our said lord the
king at *Westminster*, until — next after — (or by *ori-*
ginal in *K. B.* until — wheresoever, &c.) to hear the
judgment of the said court thereupon; for that the said court
of our said lord the king now here are not yet advised there-
of,

of, &c. (or in C. P. "a day is therefore given to the parties aforesaid here, until — to hear their judgment thereupon; for that the said justices here are yet advised thereof, &c.")

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(As in the last, to the conclusion, which is as follows:)

And this he the said *A. B.* is ready to verify by the said record, when, where, and in such manner as the court (or in C. P. the justices) here shall direct and award: And he prays, that the said record may be seen and inspected by the said court (or in C. P. by the said justices) here: And because the said *A. B.* hath not the said record now here, it is commanded to the said *A. B.* that he have the said record before our said lord the king at *Westminster*, on — next after — (or by *original* in K. B. on — wheresoever, &c. or in C. P. that he have the said record here, on —) and that he fail not at his peril; the same day is given to the said *C. D.* at the same place, (or in C. P. here, &c.)

(§ 3.)
The like, in a different court.

B. } And the said *A. B.* saith that he, by reason of any
v. } thing by the said *C. D.* in his said plea above alledged,
D. } ought not to be barred, (&c.) because he saith, that there is not any record of the supposed recovery (or recognizance) in the said plea mentioned, remaining in the said court, (&c.) in manner and form as the said *C. D.* hath above in his said plea in that behalf alledged: And this he the said *A. B.* is ready to verify, when, where, and in such manner as the court (or in C. P. the justices) here shall direct and award: And because the court of our said lord the king now here (or in C. P. the justices here) will advise themselves, upon the inspection and examination of the said record, by the said *C. D.* above alledged, a day is given to the parties aforesaid, &c. (as before, § 2.)

(§ 4.)
Replication of *nul tiel record*, to a plea of judgment, &c. in the same court.

(As in the last, to the conclusion, which is as follows:)

And this he the said *A. B.* is ready to verify, (&c.) And hereupon the said *C. D.* is commanded, that he have the said record before our said lord the king at *Westminster*, on — next after — (or by *original* in K. B. on — wheresoever, &c. or in C. P. that he have the said record here, on —)

(§ 5.)
The like, in a different court.

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—,) and that he fail not at his peril; the same day is given to the said *A. B.* at the same place, (or in C. P. here, &c.)

(§ 6.)
Rejoinder to a replication of *nul tiel record*, concluding with a verification, and prayer of judgment, &c.

D. } And the said *C. D.* saith, that the said *A. B.* by rea-
ats. } son of any thing in his said replication above alledged,
B. } ought not to have or maintain his aforesaid action
thereof against him: Because he saith, that there is such a
record, (&c.) And this he the said *C. D.* is ready to verify
by the said record, when, where, and in such manner as the
court (or in C. P. the justices) here shall direct and award:
And because the said *C. D.* hath not the said record now
here, it is commanded to the said *C. D.* that he have the said
record, &c. (as in the last.)

(§ 7.)
Rule for judgment for plaintiff, in C. P. on production of a record declared on.

In the Common Pleas.

B. } — term, (&c.)
v. } Forasmuch as the plaintiff hath brought into this
court, the record of the judgment in his declaration, it
D. } is ordered, that judgment be entered for the plaintiff,
upon the issue of no such record, unless cause shall be shewn
to this court to the contrary, on or before — next.

By the Court.

(§ 8.)
The like, on non-production of a record pleaded by defendant.

B. } Forasmuch as the defendant hath not this day brought
v. } into this court, the record of the judgment in his plea
D. } mentioned, it is ordered, that judgment upon the issue
of no such record, joined between the said parties, be entered
for the plaintiff, unless cause, &c. (as above.)

(§ 9.)
Judgment for the plaintiff, on a plea of *nul tiel record*, in debt.

(To the end of the issue, and then as follows:)

Judgment signed, (&c.)

At which day, before our said lord the king at *Westminster*, come (or, in the Common Pleas and Exchequer, "At which day come here,") as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; upon which the record aforesaid being seen and inspected by the said court here, it sufficiently appears to the same court, that there is such a record of recovery against him the said *C. D.* at the suit of the said *A. B.* as he the said *A. B.* hath above in that behalf alledged: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and also — *l.* for his damages which he hath sustained,

as well by reason of the detaining the said debt, as for his costs and charges by him about his suit in this behalf expended, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent, according to the form of the statute in such case made, and provided : and the said *C. D.* in mercy, &c.

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Mercy.

(To the end of the issue, and then as follows :)

At which day, before our said lord the king at *Westminster*, comes (or, in the Common Pleas and Exchequer, "At which day comes here,") the said *A. B.* by his said attorney ; and the said *C. D.* although solemnly demanded in open court, to appear and produce the said record by him above in pleading alledged, cometh not, nor produceth the same, but therein wholly fails and makes default ; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises : But because it is unknown, &c. (as before, p. 229, 30.)

(§ 10.)
The like, on a replication of *nil tuel record in assumpsit*, in *K. B.*

(To the end of the issue, and then as follows :)

At which day, before our said lord the king at *Westminster*, come (or, in the Common Pleas and Exchequer, "At which day come here,") the parties aforesaid, by their attornies aforesaid ; and the said *A. B.* hath not here in court the record of the supposed recovery in the said declaration mentioned, but hath failed and made default in producing the same : Therefore it is considered, that the said *A. B.* take nothing by his said bill (or writ), but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. And it is further considered, &c. (as before, p. 268.)

(§ 11.)
The like for defendant, on a plea of *nil tuel record*.

Judgment
signed, (&c.)

CHAP. XXXII.

*Of TRIALS by the COUNTRY, at BAR or NISI PRIUS :
and of the STEPS PREPARATORY to the latter, and
CONSEQUENCES of NOT PROCEEDING to TRIAL, &c.*

(§ 1.)
Rule for trial
at bar, in K. B.

— on (or next after) —, in the — year of king
George the Third.

B. UPON reading the rule made in this cause, on —
v. — next after — in this term, and hearing Mr. — of
D. counsel for the defendant, and Mr. — of counsel for
the plaintiff; it is ordered, that the trial in this cause be had
at the bar of this court, on — the — day of — now
next ensuing.

By the Court.

(§ 2.)
Notice of trial,
in London.

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

A. B. plaintiff,
and
C. D. defendant.

Take notice of trial in this cause, for the — sittings
within (or, for the first day of the sittings, or adjournment-
day, as the case may be, after) this present — term, to be
holden at the *Guildhall* of the city of *London*. Dated, (&c.)

Your's, &c.

E. F. plaintiff's attorney,
(agent, or clerk in court.)

To Mr. *G. H.* defendant's
attorney, (&c.)

(§ 3.)
The like, in
Middlesex.

If in *Middlesex*, say, “for the — sittings within (or for
the sittings after) this present — term, to be holden at *West-*
minster-hall, in the county of *Middlesex*.”

(§ 4.)
The like, at
the assizes.

If at the assizes, “for the next assizes, to be holden at —
in and for the county of —.”

Take

Take notice, that the issue joined in this cause between the above-named plaintiff and the above-named *C. D.* will be tried at the sittings, &c. (or next assizes, &c.) and that the jury who try the issue, will at the same time assess the damages against you in this cause, upon the judgment by default. Dated, (&c.)

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(§ 5.) Notice of trial and assessment of damages, to a defendant who has let judgment go by default.

Your's, &c.

E. F. plaintiff's attorney, (&c.)

To Mr. *G. H.* defendant's attorney, (&c.)

Take notice, that this cause will be tried at the bar of the court, on — at *Westminster-hall*, in the county of *Middlesex*. Dated, (&c.)

(§ 6.) Notice of trial at bar.

Your's, &c.

Take notice, that the plaintiff intends to proceed at the end of the ensuing term, by giving notice of trial in this cause. Dated, (&c.)

(§ 7.) Term's notice of trial.

Your's, &c.

I do hereby continue the notice of trial given you in this cause, to the sitting after this present — term. Dated, (&c.)

(§ 8.) Notice of continuance.

Your's, &c.

I do hereby countermand the notice of trial given you in this cause. Dated, (&c.)

(§ 9.) Notice of countermand.

Your's, &c.

In the King's Bench, (&c.)

A. B. plaintiff,
and
C. D. defendant.

(§ 10.) Affidavit for costs, for not proceeding to trial.

G. H. of — maketh oath and saith, that issue was joined in this cause, in — term last, and notice of trial given thereon for the sitting after the said term, (or, for the last assizes holden at — in and for the county of —, according to the fact): And this deponent further saith, that the above-named plaintiff did not proceed to the trial of the said action, nor countermand such notice in due time, according to the rules of this honourable court.

Sworn, (&c.)

G. H.
Upon

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(§ 11.)
Rule of court
thereon, in
K. B.

B. } Upon reading the affidavit of — it is ordered,
v. } that the attornies of both parties shall attend the
D. } Master, and he shall examine the matter, and tax the
defendant his costs, for that the plaintiff hath not proceeded
to trial pursuant to his notice; which costs when taxed shall
be paid by the plaintiff, if it shall appear to the Master that
costs ought to be paid. Upon the motion of Mr. —.

(§ 12.)
Rule for trial
by proviso.

B. } Let there be a record of *nisi prius* by proviso, if the
v. } plaintiff shall have made default.
D. }

Entered.

(§ 13.)
Notice of mo-
tion, for judg-
ment as in case
of a nonsuit.

In the King's Bench, (&c.)

A. B. plaintiff,
and
C. D. defendant.

Take notice, that this honourable court will be moved on
or so soon after as counsel can be heard, that the like
judgment may be had for the defendant in this cause, as in the
case of a nonsuit, pursuant to the statute in such case made
and provided.

Your's, &c.

G. H. defendant's attorney, (&c.)

(§ 14.)
Affidavit for
judgment as in
case of a non-
suit.

To Mr. E. F. plaintiff's attorney, (&c.)

In the King's Bench, (&c.)

A. B. plaintiff,
and
C. D. defendant.

G. H. of — attorney for the defendant in this cause,
maketh oath and saith, that issue was joined in this cause, in
— term last past, and notice of trial given for the —
sitting in (or, for the sittings after) the said term, (or, for the
last assizes holden at — in and for the county of —);
and that the said plaintiff did not proceed to the trial of this
cause, pursuant to the said notice. And (in C. P.) this depo-
nent further saith, that he did on the — day, of — instant,
(or last,) personally serve Mr. E. F. attorney for the plaintiff in
this cause, with a true copy of the notice hereto annexed; (or,
if the notice was not personally served on the attorney, "did
on, (&c.) serve a true copy of the notice hereto annexed, on
Mr. E. F. attorney for the plaintiff in this cause, by leaving
the same at the house of the said E. F. in — with his clerk,
or servant, there;" or, in the Exchequer, "that he did on
— instant (or last), serve E. F. attorney for the plaintiff in
this

this cause, with a notice in writing, purporting that this honourable court would be moved, on the — day of — instant, or so soon after as counsel could be heard, for the said plaintiff to shew cause, why the like judgment should not be entered for the defendant in this cause, as in case of a nonsuit, by leaving such notice on the seat of the said *E. F.* in the Exchequer-office of pleas of the same court.”)

Sworn, (&c.)

G. II.

The affidavit, if made after the second term in town, or next assizes but one in the country, need not state the notice of trial.

B. } Upon reading the affidavit of — and the entry of
v. } the issue on record, it is ordered that the plaintiff, upon
D. } notice of this rule to be given to his attorney, shall upon
— shew cause, why the like judgment should not be given
for the defendant, as in the case of a nonsuit, pursuant
statute in such case made and provided. Upon the me
Mr. —.

(§ 15.)
Rule of court
thereon, in
K. B.

In the King's Bench, (&c.)

A. B. plaintiff,
and
C. D. defendant.

(§ 16.)
Affidavit for
judgment as in
case of a non-
suit, after a pe-
remptory un-
dertaking.

G. II. of — attorney for the defendant in this cause, maketh oath and saith, that this honourable court was moved in last — term, for judgment as in case of a nonsuit; and upon shewing cause, the plaintiff peremptorily undertook to bring on the said issue to be tried, at the sittings after the said term, (or, at the — sitting within this present — term;) whereupon the annexed rule was made: And this deponent further saith, that the plaintiff hath not proceeded to the trial of the said issue, in pursuance of his said undertaking. And (in C. P.) this deponent further saith, that he did on, (&c.) personally serve, &c. (as before, § 14.)

Sworn, (&c.)

G. H.

As yet of — term, (&c.)

(§ 17.)

(Enter the warrants of attorney for both parties, as before, p. 210. or 217.; and after copying the issue, &c. to the end of the second award of the *venire facias*, as before, p. 287, 8. proceed as follows:)

Judgment as in
case of a non-
suit.

At which day, before our said lord the king at Westminster, (or, in the Common Pleas and Exchequer, “At which day

comes

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XXXII.

comes here,") the said *C. D.* by his said attorney; and the said *A. B.* although solemnly called comes not: And it appearing to the court of our said lord the king now here, (or in C. P. to the justices, or in the Exchequer, to the barons here,) that the said *A. B.* hath neglected to bring the issue above joined on to be tried, according to the course and practice of the said court: Therefore, according to the form of the statute in such case made and provided, it is considered, that that the said *A. B.* take nothing by his said bill (or writ,) but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. And it is further considered, &c. (as before, p. 268.)

Judgment
signed, (&c.)

(§ 18.)

Notice of motion, to put off a trial, for the absence of a witness.

In the King's Bench, (&c.)

A. B. plaintiff,
and
C. D. defendant.

Take notice, that this honourable court will be moved on — or so soon after as counsel can be heard, that the trial of this cause may be put off until next — term, on account of the absence of a material witness on the part of the defendant; and in the mean-time, all further proceedings be stayed.

Your's, &c.

G. H. defendant's attorney, (&c.)

To Mr. *E. F.* plaintiff's attorney, (&c.)

(§ 19.)

Affidavit in support thereof.

In the King's Bench, (&c.)

A. B. plaintiff,
and
C. D. defendant.

C. D. of — the defendant in this cause, maketh oath and saith, that issue was joined in this cause, in — term last past, and that notice was given for the trial thereof at the — sitting within (or at the sittings after) the said term: And this deponent further saith, that *E. F.* late of — is a material witness for him this deponent in the said cause, as he is advised and believes, and that he cannot safely proceed to the trial thereof, without the testimony of him the said *E. F.* And this deponent further saith, that in consequence of the notice of trial so given as aforesaid, he this deponent caused inquiry to be made, &c. (stating the nature and result of the inquiry made after the witness, and the time when he is likely to attend.)

Sworn, (&c.)

C. D.

CHAP. XXXIII.

Of the RECORD of NISI PRIUS, in the KING'S BENCH or COMMON PLEAS; and the RECORD and COMMISSION, in the EXCHEQUER: and of the JURY, EVIDENCE, and WITNESSES.

PLEAS before our lord the king at *Westminster*, of — term, ^(§ 1.) ^{Record of nisi} (the term in which issue is joined,) in the — year of the prius, in K. B. reign of our sovereign lord *George* the third, by the grace of God, of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—. Roll —. *Lane & Maitland.*

— to wit. (Here copy the issue, beginning with the memorandum by bill, and the declaration by original; and then proceed as follows:)

Pleas before our lord the king at *Westminster*, of — term, ^{Second placito.} (the term in or after which the cause is tried), in the — year of the reign, &c. (as before.)

— to wit. The jury between *A. B.* by his attorney plain- ^{Jura'a.} tiff, and *C. D.* (inserting his addition by original,) defendant, of a plea of trespass on the case, (or as the action is,) is respited before our lord the king at *Westminster*, until — next after —, (the return of the *distringas*, or by original, until —, wheresoever, &c.) unless the right honourable *Edward* lord *Ellenborough*, his majesty's chief-justice assigned to hold pleas in the court of our said lord the king before the king himself, shall first come on — the — day of — (the day of sittings), at the *Guildhall* of the city of *London*, (or if in *Middlesex*, at *Westminster-hall* in the county of *Middlesex*; or if in the country, "unless his majesty's justices assigned to take the assizes in and for the county of — shall first come on — the — day of —, (the commission-day of the assizes,) at —, (the place where the assizes

are

CHAP. are holden,) in the said county, according to the form of the
 XXXIII. statute in such case made and provided," for default of the jurors, because none of them did appear : Therefore let the sheriff have the bodies of the said jurors, to make the said jury between the parties aforesaid, of the plea aforesaid, accordingly ; the same day is given to the parties aforesaid at the same place.

Sciendum.

(At the assizes, the *jurata* in K. B. concludes as follows :) And be it known, that the king's writ on record was delivered to the under-sheriff of the said county, on — the — day of — in this same term, (the last day of the term preceding the trial,) before our lord the king at *Westminster*, to be executed according to law, at his peril.

8 (§ 2)
 Record of nisi
 prius, in C. P.

Pleas at *Westminster*, before Sir *Vicary Gibbs* knight and his companions, justices of our lord the king of the Bench, of — term, (the term in which issue is joined,) in the — year of the reign of our sovereign lord *George* the third, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, &c.

Roll —.

— to wit. *C. D.* was attached (or summoned) to answer *A. B.* &c. (to the end of the issue ; after which, if the cause be not tried the same term in which it was joined, there is a second *placita*, as above, of the term in or after which the trial is had ; and then, or without a second *placita*, if the cause be tried the same term, proceed with the *jurata*, as follows :)

Jurata.

— to wit. The jury between *A. B.* plaintiff, and *C. D.* late of — defendant, in a plea of trespass on the case, (or as the action is,) is respited here, until — (the return of the *habeas corpora juratorum*), unless Sir *Vicary Gibbs* knight, his majesty's chief-justice of the Bench here, assigned according to the form of the statute in that case made and provided, shall first come on — the — day of — (the day of sittings,) at the *Guildhall* of the city of *London*, (or if in *Middlesex*, at *Westminster* in the county of *Middlesex*, in the great hall of pleas there ; or if in the country, unless his majesty's justices assigned to take the assizes in and for the county of — shall

— shall first come on — the — day of — (the commission-day of the assizes,) at — (the place where the assizes are holden,) in the said county, according to the form of the statute in that case made and provided,) for default of the jurors, because none of them did appear: Therefore let the sheriff have the bodies of the several persons mentioned in the panel annexed to the writ of *habeas corpora juratorum*: And be it known, that the justices here in court, in this same term, delivered a writ thereupon to the deputy sheriff of the county aforesaid, to be executed in due form of law, &c.

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Pleas at *Westminster*, before — (the chief-justice who is dead or removed,) and his companions, justices of our lord the king of the Bench, on — (the general return-day or days previous to his death or removal,) and before — and —, (naming the other justices of the court,) justices of our said lord the king of the Bench aforesaid, on — (the general return-day or days after the death or removal,) in — term, in the — year of the reign, (&c.)

(§ 3.)
Placita, in C. P. on the death or removal of a chief-justice, in term-time.

In counties-palatine, there is no second *placita*, *jurata*, or *sciendum*; but the record of *nisi prius* ends with the award of the *mittimus*.

Pleas, &c. (as before, p. 218.)

(§ 4.)

Copy the issue, as before, p. 276. and proceed on the same line, as follows: Therefore to try the issue (or issues) aforesaid, between the parties aforesaid above joined, let a jury be made thereof: and the sheriffs of the city of *London* aforesaid are (or in *Middlesex*, the sheriff of the county of *Middlesex* aforesaid is) commanded, that they (or he) cause to come here, on — (the return of the *venire*), twelve good and lawful men of the body of their city, (or county,) each of whom, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; and the same day is given to the parties aforesaid here, &c. At which day, come here the parties aforesaid, by their attornies aforesaid; and the sheriffs of the said city of *London* (or, sheriff of the county of *Middlesex* aforesaid) sent here the writ of *venire facias* of the jurors, with a panel of the names of the jurors, to the said writ annexed; and those jurors being called, come not: There-
fore

Record in the Exchequer, for trial of a town cause.

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fore the sheriffs of the said city of *London* are (or sheriff of the said county of *Middlesex* is) commanded, that they (or he) distrain the jurors aforesaid, by their lands, &c. so that, &c. on — (the return of the *distringas*,) unless the right honourable Sir *Alexander Thomson* knight, chief-baron of his majesty's court of Exchequer, according to the form of the statute in such case made and provided, shall first come on — the — day of — next coming, (the day of the sitting,) at the *Guildhall* of the city of *London*, (or, at *Westminster* aforesaid in the said county of *Middlesex*, in the place where the court of Exchequer is usually held,) so that the inquest thereof before the said chief-baron, at the *Guildhall* aforesaid, (or, at *Westminster* aforesaid, in the place aforesaid,) then and there distinctly and openly taken, may be had here, on the aforesaid — (the return of the *distringas* :) And it is told the parties aforesaid, that they attend before the said chief-baron, at the *Guildhall* aforesaid, (or, at *Westminster* aforesaid, in the place aforesaid,) on the aforesaid — (the day of sitting) ; and that they be here on the aforesaid — (the return of the *distringas*,) to hear judgment upon the verdict of the inquest aforesaid, if, &c.

(§ 5.)
The like, for a
trial at the as-
sises.

(Copy the issue as before, p. 276. ; and proceed on the same line, as follows :) Therefore to try the issue (or issues) aforesaid, between the parties aforesaid above joined, let a jury be made thereof: and the sheriff of the said county of — is commanded, that he cause to come here, on — (the last return of the term in which issue was joined) twelve good and lawful men of the body of his county, each of whom, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. ; and the same day is given to the parties aforesaid, here, &c. At which day, come here the parties aforesaid, by their attornies aforesaid ; and the said sheriff did nothing thereupon, nor sent the writ : Therefore, as before, the sheriff of the said county of — is commanded, that he cause to come here, on — (the first return of the next term,) twelve, &c. to recognize in form aforesaid ; and the same day is given to the parties aforesaid, here, &c. At which day, come here the parties aforesaid, by their attornies aforesaid ; and the sheriff of the county of — aforesaid, sent here the writ of *venire*

*Veneromes non
misil breve.*

nire

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nire facias of the jurors aforesaid, with a panel of the names of the same jurors, to the said writ annexed ; and those jurors being called, come not : therefore the sheriff of the said county of — is commanded, that he distrain the jurors aforesaid, by their lands, &c. so that, &c. on — (the first return of the next term,) unless the justices of our said lord the king assigned to hold the assizes in and for the said county of —, according to the form of the statute in such case made and provided, shall first come on — the — day of — next coming, at — in the said county, so that the inquest thereof before the said justices, at the assizes aforesaid, then and there distinctly and openly taken, may be had here, on the aforesaid — (the return of the *distringas*) : And it is told the parties aforesaid, that they attend before the said justices, at the said assizes, on the aforesaid — (the commission-day) ; and that they be here, on the aforesaid — (the return of the *distringas*), to hear judgment upon the verdict of the inquest aforesaid, if, &c.

(Copy the issue as before, p. 276. ; and proceed on the same line, as follows :) Therefore to try the issue (or issues) aforesaid, between the parties aforesaid above joined, let a jury be made thereof : And because the said issue (or issues) ought to be tried by men of the next *English* county to the said county of —, and not elsewhere ; and because the county of — is the next *English* county to the said county of — ; therefore, for trying the issue (or issues) aforesaid, between the parties aforesaid above joined, the sheriff of the said county of — is commanded, &c. (as in the last.)

(§ 6.)
The like, where
the venue is
laid in *Wales*.

And note, for *South Wales*, where the venue is laid in *Breconshire*, *Caermarthenshire*, *Cardiganshire*, *Glanorganshire*, *Pembrokeshire*, or *Radnorshire*, the causes are tried at *Hereford* ; and for *North Wales*, where the venue is laid in *Anglesea*, *Cuernarvonshire*, *Denbighshire*, *Flintshire*, *Merionethshire*, or *Montgomeryshire*, the causes are tried at *Shrewsbury*.

In a county-palatine, a *mittimus* is awarded to the proper officer, as before, p. 280, &c. *mutatis mutandis*.

(§ 7.)
The like, in a
county-pala-
tine.

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(§ 8.)
Commission
from the Ex-
chequer, for
trial of a cause
at the assizes.

George the Third, (&c.) To our trusty and well-beloved justices, assigned to hold the assizes in the county of —, greeting: Being willing, for certain reasons, that the barons of our Exchequer at *Westminster* should by you be certified, whether one *C. D.* did undertake and promise, in manner and form as *A. B.* our debtor in and by his bill, exhibited against the said *C. D.* in our court before the barons of our Exchequer at *Westminster*, hath alledged, or not; and whether the said *C. D.* did undertake and promise, within six years next before the day of exhibiting the said bill of the said *A. B.* as the said *A. B.* in and by his replication to the plea of the said *C. D.* hath alledged, or not; and whether the said *A. B.* is indebted to him the said *C. D.* as the said *C. D.* hath in and by his plea alledged, or not; (stating the substance of the issues to be tried specially, of which the above issues on *non assumpsit*, *non assumpsit infra sex annos*, and a plea of set-off, will serve as specimens: or, instead of stating them specially, the following general form may be used in all cases: “Whether a certain issue (or issues), joined in our court before the barons of our Exchequer at *Westminster*; between *A. B.* our debtor plaintiff and *C. D.* defendant, in a plea of trespass on the case, (or as the plea is,) shall be found for the said *A. B.* or the said *C. D.*”) wherein the parties aforesaid have put themselves upon the inquest of the country; as in the plea thereupon had at our said Exchequer, (the tenor of which, under the seal of our said Exchequer, we send you to inspect, in order to have your better information therein,) is more fully contained: We therefore, fully relying on your fidelity and circumspection, assign you to inquire into all and singular the premises and their circumstances, by the oaths of lawful and honest men of the body of the county of — aforesaid, fully touching the truth: And therefore we command you, that you personally come to — in the county of — aforesaid, on —, and diligently inquire into all and singular the premises, in manner aforesaid; so that the inquest thereof, distinctly and openly before you then and there taken, be had before the barons of our Exchequer at *Westminster*, on —; for we have commanded our sheriff of the said county, that he cause to come before you, then and there, the jurors of the inquest aforesaid, to make that jury, in manner aforesaid: In witness whereof, we have caused these our letters to
be

be made patent. Witness Sir *Alexander Thomson* knight, at CHAP.
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Westminster, the — day of — in the — year of our
reign.

Rose.

*George the Third, (&c.)** To the sheriff (or coroner) of — (§ 9.)
Venire facias
juratorum.
(or, to — and —, *elisors* duly appointed in this behalf,) greeting: We command you, that you cause to come before us at *Westminster*, on — next after —, (by *bill* in the King's Bench; or by *original* in that court, “on — where-soever we shall then be in *England* ;” or in the Common Pleas, “before our justices at *Westminster*, on —”; or in the Exchequer, “before the barons of our Exchequer at *Westminster*, on — next coming ;” making the writ returnable on a particular return-day, in the King's Bench by *bill*, or by *original* in that court, or in the Common Pleas or Exchequer, on a general return-day, before the trial; and if in a country cause, on the last particular or general return-day of the term;) twelve free and lawful men of the body of your county, each of whom has *ten* pounds a year at the least of lands, tenements or rents, by whom the truth of the matter may be the better known, and who are in no wise of kin either to *A. B.* (or in the Exchequer, to *A. B.* our debtor,) the plaintiff, or to *C. D.* (inserting his addition, by *original* in K. B.) the defendant, to make a certain jury of the country between the parties aforesaid, of a plea of trespass on the case, (or as the action may be,) because as well the said *C. D.* as the said *A. B.* between whom the matter in variance is, have put themselves upon that jury; and have there then (or by *original*, in K. B. or C. P. “have there”) the names of the jurors, and this writ. Witness *Edward* Lord *Ellenborough*, (or in C. P. Sir *Vicary Gibbs* knight, or in the Exchequer, Sir *Alexander Thomson* knight,) at *Westminster*, the — day of — (the first day of the term in which the *venire* is returnable,) in the — year of our reign.

(As in the former writ, to these words, “to make a certain jury of the country between the parties aforesaid,” and then as follows :) as well to try the issue (or issues) joined between the said *A. B.* and *C. D.* of a plea of trespass on the case, (or as the action may be,) as to inquire against the said *E. F.* (§ 10.)
The like, where
one defendant
pleads, and an-
other lets judg-
ment go by de-
fault.
what

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what damages the said *A. B.* hath sustained, as well by means of the not performing of the said promises and undertakings of the said *E. F.* as for his costs and charges by him about his suit in this behalf expended; whereupon it hath been considered, that the said *A. B.* ought to recover his damages against the said *E. F.* because as well the said *C. D.* as the said *A. B.* between whom, &c. (as before.)

(§ 11.)
The like, where
there are several
fact in law,
and the jury
are to a
contingent
damages on the
latter.

— as well to try the issue (or issues) joined between them, to be tried by the country, of a plea, (&c.) as to inquire what damages the said *A. B.* hath sustained on occasion of the premises, whereof the said parties have put themselves upon the judgment of the court, if judgment shall happen to be given thereupon for the said *A. B.* against the said *C. D.* because as well, (&c.)

(§ 12.)
*Venue facias de
novo.*

George the Third, (&c.) To the sheriff of — greeting
We command you, that you cause to come *apew* before, &c.
(as in a common *venue*.)

(§ 13.)
Distringas juratores, in K. B.

George the Third, (&c.) To the sheriff of — greeting
We command you, that you distrain the several persons named in the panel hereunto annexed, (or if it be a special jury, “that you distrain *E. F.* of — *G. H.* of —” naming them as in the master’s list,) jurors summoned in our court before us, between *A. B.* plaintiff and *C. D.* defendant, by all their lands and chattels in your bailiwick, so that neither they, nor any one by them, do lay hands on the same, until you shall have another command from us in that behalf; and that you answer to us for the issues of the same, so that you have their bodies before us at *Westminster*, on — next after —, (or by *original*, on — wheresoever we shall then be in *England*; making the *distringas* returnable on the first particular or general return-day after the trial,) or before our right trusty and well-beloved *Edward* Lord *Ellenborough*, our chief-justice assigned to hold pleas in our court before us, if he shall first come on — the — day of — (the day of trial,) at the *Guildhall* of the city of *London* aforesaid, (or if in *Middlesex*, at *Westminster-hall*, in the county of *Middlesex* aforesaid; or if at the assizes, “before our justices assigned to take the assizes in your county, if they shall first come

come on — (the commission-day of the assizes,) at — (the place where the assizes are holden,) in your said county,) according to the form of the statute in such case made and provided, to make a certain jury between the said parties, of a plea of trespass on the case, (or as the plea is,) and to hear their judgment thereupon of many defaults; and have there then (or by original, “have there”) the names of the jurors, and this writ. Witness *Edward Lord Ellenborough*, at *Westminster*, the — day of — (the return-day of the *venire* by bill, or *quarto die post* by original,) in the — year of our reign.

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Law & Markham.

(After the words “many defaults,” insert the following proviso :) Provided always, that if two writs shall come to you thereupon, then you execute and return one of them only; and have there, (&c.)

(§ 14.)

The like, on a trial by *proviso*.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you have before our justices at *Westminster*, on — (the next general return after the trial,) or before the right honourable Sir *Vicary Gibbs* knight, our chief justice assigned to hold pleas in our court of the Bench, by force of the statute in such case made and provided, if he shall first come on — the — day of — (the day of trial,) at the *Guildhall* of the city of *London*, [or, if in *Middlesex*, at *Westminster hall*, in your county; or, if at the assizes, before our justices assigned to take the assizes in your county, if they shall first come on — the — day of — (the commission-day of the assizes,) at — (the place where the assizes are holden,) in your said county,] the bodies of the several persons named in the panel annexed to this writ, (or, if it be a special jury, the bodies of *G. H.* of — &c. naming them as in the prothonotary’s paper,) jurors summoned in our court before our justices at *Westminster*, between *A. B.* plaintiff, and *C. D.* late of — in your county defendant, of a plea of trespass on the case, (or as the plea may be,) to make that jury; and have there this writ. Witness Sir *Vicary Gibbs* knight, at *Westminster*, the — day of — (the *quarto die post* of the return-day of the *venire*,) in the — year of our reign.

(§ 15.)

Habeas corpora juratorum, in C. P.

CHAP. *George the Third, (&c.) To the sheriff of — greeting :*
 XXXIII. We command you, that you distrain the several persons named
 (§ 16.) in the panel hereunto annexed, (or, if it be a special jury,
Distingos juratores, in the that you distrain *E. F.* of — *G. H.* of —, &c. naming
 Exchequer. them as in the master's list,) by all their lands and chattels
 in your bailiwick, so that neither they, nor any one by them,
 do lay hands on the same, until we shall command you other-
 wise therein, and that you answer to us for the issues of the
 same, so that you have their bodies before the barons of our
 Exchequer at *Westminster*, on — next coming, unless our
 trusty and well-beloved Sir *Alexander Thomson* knight, chief-
 baron of our said Exchequer, according to the form of the
 statute in such case made and provided, on — the
 day of — next coming, (the day of sitting,) at the
Guildhall of the city of *London*, [or, if in *Middlesex*, at *West-*
minster aforesaid in the said county of *Middlesex*; or, if at the
 assizes, unless our justices assigned to hold the assizes in
 your county, according to the form of the statute in such case
 made and provided, on — the — day of — next co-
 ming, (the commission-day of the assizes,) at — in your
 county,] first shall come, to make a certain jury between *A. B.*
 our debtor plaintiff, and *C. D.* defendant, in a plea of tres-
 pass on the case, (or as the plea is,) wherein the parties afore-
 said have put themselves upon the inquest of the country;
 as in the plea thereupon had at our said Exchequer, is more
 fully contained; and have you there then the names of the
 jury aforesaid, and this writ. Witness Sir *Alexander Thom-*
son knight, at *Westminster*, the — day of — (the return-
 day of the *venire*;) in the — year of our reign.

E. F. Solicitor.

G. H.

I.

Rose.

(§ 17.)
 Rule for a spe-
 cial jury, in
 K. B.

— on (or next after) —, in the — year of king
George the Third.

B.

D. } other county, the sheriff of the county of —) shall
 at the expence of the plaintiff (or defendant), attend
 the master, with the books or lists, containing the names of
 the persons qualified to serve on juries in *London*, (or else-
 where, with the freeholders' book of the said county,) and
 the master, in the presence of the attornies of both parties,
 shall

shall name thereout forty eight good and sufficient men, being so qualified, (or, being freeholders of the said county,) of whom twelve shall be struck out on each side, and the remaining twenty-four shall be returned by the said sheriffs, (or sheriff,) to try the issue (or issues) between the parties. Upon the motion of Mr. —

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By the Court.

— term, (&c.)
— the — day of —.

(§ 18.)
The like, in the
Exchequer.

B. } Upon the motion of Mr. — of counsel for the plain-
v. } tiff, (or defendant,) it is ordered, that the sheriff of the
D. } county of — do attend the deputy clerk of the pleas, with the book of list of the names of the freeholders of the said county, who shall name out of that list forty eight freeholders, twelve of whom shall be struck out by each party, and twenty four, the remainder, returned for the trial of this cause.

By the Court. Rose.

It is ordered, that a writ of *distringas juratores* issue, directed to the sheriff of the county of —, in which shall be contained a clause, commanding the said sheriff

(§ 19.)
Rule for a view,
by a common
jury, in K. B.

to have six or some greater number of the jurors, to be impanelled and returned to try the issue between the parties, who shall be mutually consented to by the said parties or their agents, at the place in question, before the time of the trial of the said issue, to wit, upon — the — day of —; and that — on the part of the plaintiff, and — on the part of the defendant, shall attend the same day, and shew the matters in question to the said six or some greater number of the said jurors, who shall be consented to as aforesaid; and that the expence of taking the said view shall be equally borne by both parties, and no evidence shall be given on either side at the time of taking thereof: the plaintiff (or defendant) consenting, that in case no view shall be had, or if a view shall be had by any of the said jurors, whether they shall happen to be six or any particular number of the jurors who shall be so mutually consented to as aforesaid, yet the said trial shall proceed, and no objection shall be made on account thereof, or for want of a proper return to the said writ. Upon the motion of Mr. —

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(§ 20.)
The like, by a
special jury, in
K. B.

B. } It is ordered, that a writ of *distringas juratores* issue,
v. } directed to the sheriff of the county of —, in which
D. } shall be contained a clause, commanding the said sheriff
to have six or more of the first twelve of the jurors, to be im-
panelled and returned to try the issue between the parties, at
the place in question, before the time of the trial of the
said issue, to wit, upon — the — day of —; and that
— on the part of the plaintiff, and — on the part of the
defendant, shall attend the same day, and shew the matters in
question to the said six or more of the first twelve of the said
jurors; and that the expence of taking the said view shall be
equally borne by both parties, and no evidence shall be given
on either side at the time of taking thereof: the plaintiff (or
defendant) consenting, that in case no view shall be had, or if
a view shall be had by any of the said jurors, whether they
shall happen to be any of the twelve jurors who shall be first
named in the said writ or not, yet the said trial shall proceed,
and no objection shall be made on account thereof, or for
want of a proper return to the said writ. Upon the motion
of Mr. —.

(§ 21.)
Distringas jura-
tores, where a
view is to be
had by a com-
mon jury, in
K. B.

George the Third, (&c.) To the sheriff of — greeting:
We command you, &c. (as in a common *distringas*, to the
words “many defaults,” and then as follows;) and in the
mean-time, according to the form of the statute in such case
made and provided, we command you, that you have six or
some greater number of the said jurors, who shall be mutually
consented to by the said A. B. and C. D. or their agents, to
take a view of the place in question, on — the — day
of —; and that the same jurors meet on the same day, at
the house of — in your county, and proceed from thence to
view the said place, in the presence of — on the part of
the plaintiff, and — on the part of the defendant, appointed
by our court before us to shew the said place, to such of the
said jurors as shall come to view the same; and in what man-
ner you shall have executed this our command, make appear
to us at *Westminster*, on the said day, (or by *original*, on the
said day, wheresoever, &c.) and have there then this writ.
Witness, (&c.)

— and

— and in the mean-time, according to the form of the statute in such case made and provided, we command you, that you have six or more of the first twelve of the said jurors, to take a view of the place in question, on — the — day of —; and that the same jurors meet, &c. (as before.)

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XXXIII.

(§ 22.)
The like, by a
special jury, in
K. B.

E. F. of — gentleman, attorney for the said plaintiff, maketh oath and saith, that the plaintiff's declaration in this cause is for a trespass, supposed to have been committed by the defendant, on the plaintiff's land, &c. (stating shortly the nature of the cause of action): And this deponent further saith, that he is informed and verily believes, that the said plaintiff cannot safely proceed to the trial of this cause, without a view being first had, by some of the jury intended to be impanelled to try the issue in this cause.

(§ 23.)
Affidavit for a
view, in C. P.

E. F.

Sworn, (&c.)

In the Common Pleas.

— term, in the — year of the reign of king George the Third.

(§ 24.)
Rule for a view,
in C. P.

— the — day of —.

B. } Upon reading the affidavit of *E. F.* gentleman, it
v. } is ordered, at the instance of the plaintiff, that a
D. } special writ of *habeas corpora juratorum*, directed to the sheriff of —, according to the form of the statute in that case made and provided, shall issue, by which the said sheriff shall cause the place in question to be shewn to six or more of the jury, impanelled and returned to try the issue between the said parties, or as many more of them as he shall think fit to take a view of the place in question, on — the — day of — next, at — of the clock in the forenoon of the same day; which said jurors shall meet at the house of *G. H.* known by the name or sign of — in —, who shall then and there be refreshed, at the equal charge of the said parties; and that — on the part of the plaintiff, and — on the part of the defendant, named in the said writ, shall shew the place in question to those jurors; but that no evidence shall be then and there given to the said jurors: and the sheriff of — shall, by a special return upon the said writ, certify to the justices of assize, that the said view

was

CHAP. was had, according to the command of the said writ. On
XXXIII. the motion of Serjeant — for the plaintiff.

By the Court.

(§ 25.)
*Habeas corpora
juratorum,
thereon.*

(As before, p. 321. to the words "to make that jury," and then as follows :) And in the mean-time, according to the form of the statute in such case made and provided, we command you, that you have six of the first twelve of the said jurors, or as many more of them as you shall think fit, to take a view of the place in question, on — at — (as in the rule,) in your county, and proceed from thence to view the said place, in the presence of — on the part of the plaintiff, and — on the part of the defendant, appointed by our court of the Bench, to shew the said place to such of the said jurors as shall come to view the same; and that you make appear to our said justices at *Westminster*, on the said day, in what manner you shall have executed this our writ; and that you have there this writ. Witness Sir *Vicary Gibbs* knight, (S^c)

(§ 26.)
Rule for a view,
by a special in-
ry, in the Ex-
chequer.

— term, (S^c)
— the — day of —.

B. } Upon the motion of Mr. — of counsel for the plain-
tiff (or defendant), it is ordered, that a *special writ* as
D. } for impanelling a jury, shall issue in this cause, directed
to the sheriff of —, commanding that the aforesaid sheriff
have six or more of the first twelve jurors impanelled to try
the issue between the said parties, according to the form of
the statute in that case made and provided, to view the place
in question, between the parties aforesaid, on — the —
day of — next coming; which said jurors shall meet at
the house of —, known by the name or sign of —, in the
town of — in the county of —, at — of the clock in
the forenoon of the same day; and there shall be refreshed,
at the equal charge of the parties aforesaid; and that —
on the behalf of the said plaintiff, and — on the behalf of
the said defendant, shall shew the place in question and dispute
between the said parties, to those jurors; but no evidence
shall then and there be given them thereon, in any sort;
and that the same jurors, who shall view the place in question

as aforesaid, and appear, shall, before any drawing, be first sworn upon the jury, for the trial of this cause.

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XXXIII.

By the Court. *Rose.*

George the Third, (8c.) To the sheriff of — greeting: We command you, &c. (as before, p. 322 to the words "more fully contained," and then as follow:—) We also command you, that you distrain six or more of the first twelve of the jury aforesaid, to view the place in question, between the parties aforesaid, on, (8c.); which said jurors shall meet at, (8c.) and there shall be refreshed, (8c.); and that — on the behalf of the said plaintiff, and — on the behalf of the said defendant, shall shew the place in question to those jurors; but no evidence shall then and there be given them; and have you there then the names of the jury aforesaid, and this writ. Witness Sir Alexander Thomson knight, (8c.)

(§ 27.)
Distringas
thereon.

Rose.

George the Third, (8c.) To our justices of our county-palatine of Lancaster, greeting: The tenor of a certain record in our court before us (or in C. P. before our justices; or in the Exchequer, before the barons of our Exchequer) at Westminster, between A. B. (or in the Exchequer, between A. B. our debtor) plaintiff and C. D. defendant, of a plea of trespass on the case (or as the plea is), we send you inclosed in these presents; commanding you, that having inspected the same, by our writ under the seal of our said county-palatine, you command the sheriff of the same county, that he cause twelve free and lawful men of the body of the same county-palatine to come before you, at your next general session of assize, there to be holden after this writ shall be delivered to you, each of whom having ten pounds a-year at the least, of lands, tenements or rents, by whom the truth of the matter in question may be the better known and inquired into, and who are in no wise akin either to the said A. B. or to the said C. D. to recognize and make a certain jury of the country between the said parties, of the plea aforesaid, because as well the said C. D. as the said A. B. between whom the matter in variance is, have put themselves upon that jury;

(§ 28.)
Multis to the
county-pala-
tine of Lancas-
ter.

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XXXIII.

jury; and also that you make such further process against the said jurors, so to be impanelled between the said parties, as is in this behalf used and commonly made, according to the law and custom of the said county-palatine, until the issue (or issues) aforesaid, between the said parties, shall be fully tried. And when the verdict (or issues) aforesaid shall have been thereupon tried before you, then do you send the record of the plea aforesaid, together with every thing that shall have been done before you thereupon, and also this writ, to us (or in C. P. to our justices, or in the Exchequer, to the barons of our Exchequer) at *Westminster*, at a certain day which you shall appoint to the said parties to be in our said court here, (or in C. P. to be here,) to hear judgment thereupon. Witness, (&c.)

(\$ 27.)

Rule for a view
by a special
jury, in a coun-
ty palatine, in
K. B.

— on (or next after) — in the — year of king
George the Third.

B. } It is ordered, that a view of the place in question be
v. } had by six or more of the first twelve of the jurors, to
D. } be impanelled and returned to try the issue between the
parties, at the place in question, before the trial of the
issue, to wit, upon — the — and
that — on the part of the plaintiff, and — on the part of
the defendant, shall attend the same day, and raise the mat-
ters in question to the said six or more of the first twelve
of the said jurors; and that the expence of taking the said
view shall be equally borne by both parties, and no evi-
dence shall be given on either side, at the time of taking
thereof: the plaintiff (or defendant) hereby consenting, that
in case no view shall be had, or if a view shall be had by
any of the said jurors, whether they shall happen to be one
of the twelve jurors, who shall be first named in the panel an-
nexed to the writ of *venire facias*, to be issued in this cause,
or not, yet the said trial shall proceed, and no objection shall
be made on account thereof, or for want of a proper return
to the said writ. Upon the motion of Mr. —.

By the Court.

(\$ 30.)

Amendments there-
on.

(As before, p. 327, 8. to these words, "until the issue afore-
said between the said parties shall be fully tried," and then
proceed

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XXXIII.

proceed as follows :) And that in the writ of *venire facias*, to be issued by you in this cause, there be contained a clause, commanding the sheriff of the said county-palatine, to have six or more of the first twelve of the jurors, so to be impanelled and returned, at the place in question, before the time of the trial of the said record, on the — day of — next ensuing; and that — on the part of the said *A. B.* and — on the part of the said *C. D.* shall attend the same day, and shew the matters in question to the said six or more of the first twelve of the said jurors: And when the verification and issue aforesaid shall have been there made and tried, &c. (as before.)

George the Third, (&c.) To our chamberlain of our county-palatine of *Chester*, or to his deputy there, greeting: The tenor of a certain record, which is depending in our court before us (or in G. P. before our justices, or in the Exchequer, before the barons of our Exchequer) at *Westminster*, between *A. B.* (or in the Exchequer, between *A. B.* our debtor) plaintiff and *C. D.* defendant, of a plea of trespass on the case, we send you inclosed in these presents; commanding you, that by our writ under the seal of our said county-palatine duly to be made out, you cause the said record to be sent to the mayor of the city of *Chester* and county of the same city, commanding the said mayor, that for trying the issue in the said record specified, the said mayor do command the sheriffs of the same city of *Chester* and county of the same city, that they cause to come before the said mayor, at a certain day and place by the said mayor to be appointed, after the said record shall be delivered to him, twelve free and lawful men of the body of the city aforesaid and county of the same city, each of whom, &c. by whom, &c. and who are in no wise, &c. to recognize, &c. because as well, &c. and lastly, that the said mayor make such further process against the said jurors, so to be impanelled between the said parties, as according to the law and custom of the said city and county of the same city is in this behalf used and commonly made, until the issue aforesaid between the parties aforesaid shall be fully tried; and when the verification and issue aforesaid shall have been there made and tried, then the said mayor shall send to you the said record of the
plaint

(§ 31.)
The like, to the
city of *Chester*.

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XXXIII.

plaint aforesaid, with every thing that shall have been then and there done and tried, before him therein, so that you have the said record before us (or in C. P. before our justices, or in the Exchequer, before the barons of our Exchequer) at *Westminster*, and on a certain day which the said mayor shall appoint, the parties to be, in our said court here, (or in C. P. to be here,) to hear judgment. Witness, (&c.)

(§ 32.)
Notice to produce books,
&c. in an action
for goods sold,
&c. on the part
of the defendant.

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

A. B. plaintiff,
and
C. D. defendant.

You are hereby required to produce to the court and jury, on the trial of this cause, all books, papers and writings, containing any entry, *memorandum* or minute, relating to the sale and delivery of the goods in question in this cause; or of any sales, payments, or other transactions in business, between the said plaintiff, or any person on his behalf, and the said defendant, during the months of — and — in the year 18—; particularly the warehouse book, waste book, day-book, invoice book, journal, cash book and ledger, during the same months; and also the invoice or bill of parcels, of any goods sold or delivered by the plaintiff, or his servants, to the defendant, on or about the — day of the said month of —, and all other invoices or bills of parcels, of any other goods sold or delivered by the plaintiff, or his servants, to the defendant; and also all bills of exchange, drawn by the plaintiff upon and accepted by the defendant, and particularly a certain bill of exchange, dated the — day of — 18—, drawn by the plaintiff upon and accepted by the defendant, for the sum of — £. payable to the order of the said plaintiff, at — after date; and also all other books, papers and writings whatsoever, containing any entry, *memorandum* or minute, in anywise relating to the matters in question in this cause. Dated, (&c.)

Your's, &c.

G. H. defendant's attorney,
(agent, or clerk in court.)

To Mr. *A. B.* the above-named plaintiff,
and to Mr. *E. F.* his attorney, (&c.)

— (to wit.) *Subpœna* to testify, between *A. B.* plaintiff and *C. D.* defendant, on the part of the plaintiff (or defendant).

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XXXIII.
(§ 33.)
Prœcipe for subpœna.

E. F. attorney.

— 18—.

George the Third, (&c.) greeting: We command you, that laying aside all and singular businesses and excuses, you and every of you be and appear in your proper persons, before our right trusty and well-beloved *Edward Lord Ellenborough*, our chief-justice assigned to hold pleas in our court before us, (or in C. P. before *Sir Vicary Gibbs* knight, our chief-justice of the Bench; or in the Exchequer, before *Sir Alexander Thomson* knight, lord chief-baron of our court of Exchequer at *Westminster*;) at the *Guildhall* of the city of *London*, (or in *Middlesex*, at *Westminster-hall* in the county of *Middlesex*; adding in the Exchequer “in the place where our said court of Exchequer is usually held;” or at the assizes, before our justices assigned to take the assizes in and for the county of —, at — in the said county,) on the — day of — instant (or next), by — of the clock in the forenoon of the same day, to testify all and singular those things which you or either of you know, in a certain cause now depending in our court before us, (or in C. P. before our justices, or in the Exchequer, before the barons of our said court of Exchequer) at *Westminster*, between *A. B.* (or in the Exchequer between *A. B.* our debtor) plaintiff and *C. D.* defendant, of a plea of trespass on the case, (or as the action is), on the part of the plaintiff (or defendant), and on that day to be tried by a jury of the country; and this you, or any of you, shall by no means omit, under the penalty, upon each of you, of 100*l*. Witness, (&c.)

(§ 34.)
Subpœna ad testificandum.

By virtue of a writ of *subpœna* to you directed, and herewith shewn unto you, you are personally to be and appear before *Edward Lord Ellenborough*, chief-justice of his majesty's court of King's Bench, (or in C. P. before *Sir Vicary Gibbs* knight, his majesty's chief-justice of the court of Common Pleas; or in the Exchequer, before *Sir Alexander Thomson* knight, chief-baron of his majesty's court of Exchequer), on —

(§ 35.)
Subpœna ticket.

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on — the — day of — instant (or next), by — of the clock in the forenoon of the same day, at the *Guildhall*, &c. (as in the *subpoena*), then and there to testify the truth, according to your knowledge, of a certain cause now depending, and there to be tried, between *A. B.* (or in the Exchequer, between *A. B.* his master) plaintiff, and *C. D.* defendant, of a plea of trespass on the case, (or as the action is,) on the part of the plaintiff (or defendant); and this you are not to omit, under the penalty of 100*l.* Dated the — day of — in the — year of the reign of our sovereign lord *George* the third, (&c.) and in the year of our Lord 18—.

By the Court, (or Barons.)

E. F. attorney (or clerk in court)
for plaintiff, (or defendant).

(§ 36.)
*Subpoena, duces
tecum.*

George the Third, &c. (as in a common *subpoena*, to the day of trial, and then proceed as follows:) And also that you bring with you and produce, at the time and place aforesaid, a certain deed or instrument in writing, bearing date, &c. (describing the thing to be produced,) then and there to testify and shew all and singular those things which you or either of you know, or the said deed or instrument doth import, of and concerning a certain cause now depending, &c. (as before).

(§ 37.)
*Affidavit to ob-
tain habeas cor-
pus ad testi-
ficandum.*

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)
— plaintiff,
and
— defendant.

A. B. of — the above-named plaintiff, maketh oath and saith, that this cause is set down for trial at the sitting after this present term, to be holden at the *Guildhall* *London* (or, at *Westminster-hall* in the county of *Middlesex*, or, at the next assizes to be holden in and for the county of —); and that *E. F.* now a prisoner for debt, in custody of the marshal of the King's Bench prison, (or, in his majesty's prison of the *Fleet*, or in the county-gaol of —, as the case may be,) is and will be a material witness for this deponent, at the trial of this cause: And this deponent further saith, that he is advised and verily believes, that he cannot safely proceed to the trial thereof, without the testimony of the said *E. F.*; and that he

the

the said *E. F.* is ready and willing to attend as a witness, at the trial of the said cause.

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A. B.

Sworn, (&c.)

— (to wit.) — testify, between *A. B.* (§ 38.)
plaintiff and *C. D.* on the part of the plaintiff, (or *Præcipe* for
defendant). same.

E. F. attorney.

— 13—.

George the Third, (&c.) To the marshal of our prison of (§ 39.)
the marshalsea, (or, warden of our prison of the *Fleet*, or, to the *Habeas corpus*
sheriff of —, or other officer in whose custody the prisoner *ad testificandum.*
is,) greeting: We command you, that you have the body of
E. F. detained in our prison under your custody, as it is said,
under safe and secure conduct, before our right trusty and
well-beloved *Edward Lord Ellenborough*, our chief-justice as-
signed to sit in our court before us, (or in C. P. before
Sir — knight, our chief-justice assigned to hold
pleas in our court of the Bench, or in the Exchequer, before
Sir — knight, lord chief-baron of our court
of Exchequer at *Westminster*;) at the *Guildhall*, &c. (as in the
subpoena;) on — the — day of — next, by — of the
clock in the forenoon of the same day, then and there to
testify the same according to his knowledge, in a certain
cause now depending in our court before us, (or in C. P. be-
fore our justice of the Bench aforesaid, or in the Exchequer,
before the barons of our said Exchequer,) and then and there
to be tried, between *A. B.* (or, in the Exchequer, between
A. B. debtor) plaintiff and *C. D.* defendant, of a plea of
trespass, &c. (or as the action is), on the part of the
said *A. B.* (or, the said *C. D.*); and immediately after the said
E. F. shall then and there have given his testimony before our
said chief-justice, or chief-baron, (if in town; and if in the
country, before our said justices,) that you return him the
said *E. F.* to our said prison, under safe and secure conduct;
and have there then (or, in the Common Pleas or Exchequer,
“have there”) this writ. Witness, (&c.)

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XXXIII.
(§ 40.)

Rule to examine witnesses on interrogatories, in K.B.

— on (or next after) — in the — year of
king *George* the Third.

Upon reading the rule made in this cause, on — next after —, and by the consent of Mr. — of counsel for the plaintiff, and Mr. — of counsel for the defendant, it is ordered, that the plaintiff (or defendant) be at liberty to examine *de bene esse*, — one (or — and — two or more) of his witnesses, who is (or are) going abroad, upon interrogatories, to be exhibited to him (or them), before the lord chief-justice, or one other of the justices of this court; two days notice of the time and place of such examination being first given to the attorney for the defendant, (or plaintiff); and the defendant (or plaintiff) is to be at liberty to cross-examine the said witness, (or witnesses); and it is further ordered, that the interrogatories to be exhibited, and depositions and cross-examinations taken, in manner aforesaid, be admitted to be read and given in evidence at the trial of this cause, saving all just exceptions. Upon the motion of Mr. —.
By the Court.

(§ 41.)
Rule in C. P.
for a commission,
to examine witnesses
abroad.

In the Common Pleas.

— term, — *Geo.* III.

B. } — the — of —. Upon reading a rule made
v. } in this cause, on — last, the affidavit of A. B. the
D. } plaintiff in this cause, and on hearing and by consent
of counsel on both sides; it is ordered, that the said rule be discharged; and that the trial of this cause be respite, until the next term: And it is further ordered, that commissions, at the instance and on the prosecution of the plaintiff, as well as the defendant in this cause, to be respectively settled and approved of by one of the prothonotaries of this court, shall be issued forth out of this court, directed to certain commissioners, to be respectively named as well on the part of the plaintiff as on the part of the defendant, and to be respectively approved of by one of the prothonotaries of this court, in case the said parties shall happen to differ about the same, for the examination and examinations *de bene esse*, before such commissioners respectively, under such respective commissions, of such of the plaintiff's and defendant's witnesses respectively, as reside at the island of — respectively, upon interrogatories to be exhibited

exhibited to such witnesses respectively, under such respective commissions; and that the plaintiff, and also the defendant, shall and may be at liberty, at the time of such last-mentioned examination or examinations respectively, to exhibit cross interrogatories for the examination or examinations of such respective witnesses or witnesses respectively, before such respective commissioners as aforesaid, if either the plaintiff or the defendant shall so think fit; and that the examinations and depositions of such witnesses or witness, so as aforesaid to be respectively taken, as well on the part of the plaintiff as of the defendant, shall be respectively read and given in evidence on the trial of this cause, saving all just exceptions: And it is further ordered, that at the respective times of issuing such commissions respectively as aforesaid, the plaintiff's and defendant's attornies or agents shall deliver to each other, copies of the respective interrogatories under the respective commissions, on which the plaintiff and defendant shall examine their witnesses respectively; and that in such commissions respectively, there shall be a clause inserted, directing the commissioners on the respective parts of the plaintiff and the defendant, or such of them as the said prothonotary shall approve of and appoint, in case the said parties shall differ about the same, to give --- days previous notice of the execution of such commissions respectively, to the commissioners on the behalf of the plaintiff and defendant, or such one or more of them as the said prothonotary shall approve of and appoint, in case the said parties shall differ about the same: and such notice shall accordingly be given, before the execution of such commissions respectively, by the plaintiff's commissioners or commissioner, to the defendant's commissioners or commissioner, and by the defendant's commissioners or commissioner, to the plaintiff's commissioners or commissioner, according to such approval and appointment of the said prothonotary as aforesaid: And it is further ordered, that such commissions shall be respectively executed in the presence of two of the commissioners at least, to be respectively named in the said commissions respectively; which said commissions respectively shall be returnable on, (&c.): and that such commissions respectively, and the interrogatories depositions and cross examinations respectively to be taken in manner aforesaid, under the same respectively, shall

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shall be transmitted, under the respective seals of such commissioner, who shall respectively take the same in manner aforesaid, without delay, to the secondaries of this court; and shall without further proof be read and given in evidence upon the trial of the issue in this cause, saving all just exceptions thereto as aforesaid.

By the Court.

On the motion of Serjeant —
for the plaintiff, and Serjeant
— for the defendant. }

Entered.

(§ 42.)
Commission
thereon.

George the Third, (&c.) To — and — greeting:
Know ye, that we, in confidence of your piety and fidelity, have appointed you, and by these presents do give unto you, any two or more of you, full power and authority diligently to examine all witnesses whatsoever, upon certain interrogatories to be exhibited to you, as well on the part of *A. B.* plaintiff as on the part of *C. D.* defendant. In a certain plea of trespass on the case, (or as the plea is,) now depending between them, in our court before our justices of the Bench at *Westminster*; and therefore we command you, any two or more of you, that on or before the — day of — now next ensuing, at a certain day and place, or certain days and places, to be appointed by you for that purpose, you cause the said witnesses to come before you at —, and then and there examine each of them apart, upon the said interrogatories, on their respective corporal oath, first taken before any two or more of you, upon the Holy Evangelists, according to the form of the oath first indorsed hereupon; and that you do take such their examinations, and reduce them into writing on paper or parchment; and when you shall have so taken them, you are to send the same, without delay, to our justices of our said court of the bench at *Westminster*, closed up, under your seals, or the seals of any two or more of you, distinctly and plainly set, together with the said interrogatories, and this writ, to be filed of record in the *Secondaries* office of the same court, with — esquire, one of the secondaries of the same court: And we further command you, and every of you, that before you act in or be present at the swearing or examining any witness

or

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or witnesses, you severally take the second oath hereupon indorsed ; and we give you, any two or more of you, full power and authority, jointly or severally, to administer such oath to the rest, or any other of you, upon the Holy Evangelists : And we further command, that all and every the clerk or clerks employed in taking writing transcribing or ingrossing the deposition or depositions of witnesses, to be examined by virtue of these presents, shall before he or they be permitted to act as clerk or clerks as aforesaid, severally take the third oath hereupon indorsed ; and we also give you, or any two or more of you, full power and authority, jointly and severally, to administer such oath to such clerk or clerks, upon the Holy Evangelists : And we further command, that previous to the execution of this commission, which is granted by us at the instance of the plaintiff and defendant, and by them prosecuted, the said — and — commissioners who have been named, approved of and appointed on the behalf of the plaintiff and defendant, shall give or cause to be given — days notice in writing of such execution of this commission, under their respective hands, to the said — and — respectively, commissioners who have been named, approved of and appointed on the behalf of the plaintiff and defendant, by delivering such notice to the said — and — personally, or by leaving such notice for them or him, at their or his then respective place or places of abode in —, if they, or either of them, are or is then respectively resident in — ; but if they or either of them are or is not then resident in —, then by leaving such notice at the last place or places of abode there, of such of them the said — and — who are or is not resident in —, — days at the least previous to and before the execution of this commission ; and in and by such notice shall state the place day and hour, whereat and wherein this commission shall be executed. Witness Sir Vicary Gibbs knight, at Westminster, the — day of — in the — year of our reign.

You are true answer to make to all such questions as shall be asked you, upon the interrogatories now produced and shewn to you, without favour or affection to either party ; and therein you shall speak the truth, the whole truth, and nothing but the truth.

(§ 43.)
The witnesses
swear.

So help you God.

Z

You

CHAP.
XXXIII.
(§ 44.)
The commis-
sioners oath.

You shall, according to the best of your skill and knowledge, truly and faithfully, and without partiality to any or either of the parties in this cause, take the examinations and depositions of all and every witness and witnesses, produced and examined by virtue of the commission within-written, upon the interrogatories now produced and left with you.

So help you God.

(§ 45.)
The clerks
oath.

You shall truly, faithfully, and without partiality to any or either of the parties in this cause, take and write down, transcribe and ingross the depositions of all and every witness and witnesses produced before and examined by the commissioners, or any of them, named in the commission within-written, as far forth as you are directed and employed by the said commissioners, or any of them, to take down write or ingross the said depositions.

So help you God.

(§ 46.)
Interrogatories,
for plaintiff.

INTERROGATORIES to be administered to *E. F.* a witness to be produced sworn and examined, on the part and behalf of *A. B.* plaintiff, in a certain cause now depending in his majesty's court of King's Bench (or Common Pleas, or Exchequer) at *Westminster*, against *C. D.* defendant, before — one of his said majesty's justices of the same court, (or, in the Exchequer, before one of the barons of his said majesty's Exchequer,) pursuant to a rule of the said court, made on — next after — in the — year of the reign of king *George the third*, (or if under an order, say, "pursuant to an order of the said justice, or baron, made the — day of — 18—.")

Imprimis. Do you know the parties, plaintiff and defendant, in the title of these interrogatories named, or either and which of them, and how long have you known them, or either and which of them? Declare the truth, and your knowledge herein.

Secondly. Look upon the deed or writing now produced and shewn to you, at this the time of your examination, marked with the letter (*A.*) and purporting to be an indenture of lease,

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lease, (&c.) bearing date, (&c.) Was such deed or writing sealed and delivered in your presence, and by whom? Were you a subscribing witness to the sealing and delivery thereof? And is the name *E. F.* indorsed thereupon, and appearing as the name of one of the witnesses, of your own hand-writing? Do you know the hand-writing of *G. H.* appearing to be the other witness to the said deed or writing? Is the name *G. H.* indorsed thereupon, of the proper hand-writing of the said *G. H.*? And did you see him set and subscribe his name as a witness thereto? Declare, &c.

Lastly. Do you know of any other matter or thing, or have you heard, or can you say any thing, touching the matters in question in this cause, that may tend to the benefit and advantage of the said plaintiff, besides what you have been interrogated unto? If yea, declare the same, fully and at large, as if you had been particularly interrogated thereto.

INTERROGATORIES to be administered to *E. F.* a witness to be produced, sworn and examined, on the part and behalf of *C. D.* the defendant, in a certain cause now depending against him, in his majesty's court of King's Bench (Common Pleas, or Exchequer) at *Westminster*, at the suit of *A. B.* plaintiff, before, (&c.)

(§ 47.)

The like, for defendant.

INTERROGATORIES to be administered, by way of cross-examination, to *E. F.* a witness, (&c.)

(§ 48.)

The like, to cross-examine a witness.

— on (or next after) — in the — year of king
George the Third.

(§ 49.)

Rule for the examination of witnesses in India, on statute 13 Geo. III. c. 63. § 43

B. v. D. } It is ordered, that a writ, in the nature of a *mandamus*, issue, directed to — chief-justice, and — judges of his majesty's supreme court of judicature at *Fort William* in *Bengal*, in the *East Indies*, commanding them the said chief-justice and judges, to hold a court for examination of the witnesses, on the part of the plaintiff in this cause, and for receiving other proofs therein, pursuant to the statute made in the thirteenth year of the reign of his present majesty; and to perform all such matters and things, as by the directions of the said statute are required: And it is further ordered, that the depositions taken in man-

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ner aforesaid, be transmitted, under seal of the said court, to — esquire, clerk of the rules and orders on the plea-side of his majesty's court of King's Bench at *Westminster*. Upon the motion of Mr. *Law*.

By the Court.

(§ 50.)
Mandamus
thereon.

George the Third, (&c.) To — chief-justice, and — and — judges of his majesty's supreme court of judicature at *Fort William* in *Bengal*, in the *East Indies*, and to every of them, greeting: Whereas *A. B.* hath lately, in our court before us at *Westminster*, commenced and prosecuted a certain action at law against *C. D.* for the recovery of his damages, by him alledged to be sustained, on occasion of the non-performance of certain promises and undertakings, heretofore alledged to have been made by the said *C. D.* to the said *A. B.*; and which said action is yet depending in our said court before us at *Westminster*: And whereas, on the part of the said *A. B.* (or *C. D.*) we have been given to understand and be informed, that the cause of the said action, so commenced prosecuted and depending as aforesaid, arose in the kingdom or province of *Bengal* in *India*, within the jurisdiction of your court; and that the said *A. B.* (or *C. D.*) is unable conveniently to proceed to the trial of the said cause, by reason of the difficulty of proving in this kingdom, divers matters and things relating to the said cause, which have been done and arisen in *India*, within the jurisdiction of your said court: And whereas the said *A. B.* (or *C. D.*) hath besought us to award to him our writ in this behalf, to you the chief-justice and judges of the said supreme court of judicature to be directed, for the examination of witnesses resident within the jurisdiction of your said court, according to the form and effect of the statute in such case made and provided: We therefore, being willing that the said *A. B.* (or *C. D.*) should have all proper benefit of the provisions of the said statute, and that due and speedy justice should be done in the premises, do command you the said chief-justice and judges of the said supreme court of judicature, that you do, with all convenient speed, hold a court for the examination of witnesses in this cause; and that you do perform all such other matters and things in this behalf, as by the directions of the said statute, you are required to do and perform: And how you shall

shall have executed this our writ, make known to us at *Westminster*, with all convenient speed ; at the same time returning to us the examinations, which you shall have taken by virtue of this our writ, together with this writ. Witness, (&c.)

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Of ARBITRATION.

(§ 1.)
Yours of cou
a

on, in
K. E.

— on (or next after) — in the — year of king
George the Third.

B. } Upon hearing Mr. — of counsel for the plaintiff;
v. } and Mr. — of counsel for the defendant, and by
D. } their consent, it is ordered, that all matters in difference in this cause, (or, if it be a general reference, all matters in difference *between the parties* in this cause,) be referred to the award, order, arbitration, final end and determination of *E. F.* of — and *G. H.* of —, arbitrators nominated by the said plaintiff and defendant, and of such third person as the said *E. F.* and *G. H.* shall, by a *memorandum* under their hands, to be indorsed on these presents, before they proceed on the said arbitration, nominate and appoint, or of any two of them, so as they the said arbitrators, or any two of them, shall make and publish their award in writing, of and concerning the matters in question, on or before the — lay of — next, or on or before such further or ulterior day, as the said arbitrators, or any two of them, shall ultimately appoint, and signify in writing under their hands, to be indorsed on these presents, and this court, or one of the judges thereof, shall order; and that the said parties shall and do perform, fulfil and keep such award, so to be made by the said arbitrators, or any two of them, so named as aforesaid: And it is further ordered, by and with such consent as aforesaid, that the costs of this cause, and of the said reference, or in any manner relative thereto, shall abide the event of the said award or umpirage: And it is likewise ordered, by and with such consent as aforesaid, that the plaintiff and defendant respectively, shall or may be examined upon oath, to be sworn before the lord chief-justice, or some other justice of this court, if thought necessary by the said arbitrators, or any two of them; and shall and do produce

duce before the said arbitrators, or any two of them, all books, papers and writings, touching and relating to the matters in difference between the said parties, as the said arbitrators, or any two of them, shall think fit; and that the witnesses of the plaintiff and defendant respectively, shall be examined upon oath, to be sworn before the said lord chief-justice, or some other justice of this court: And it is likewise ordered, by and with such consent as aforesaid, that neither the plaintiff or defendant shall prosecute or bring any action or suit, in any court of law or equity, against the said arbitrators, or any or either of them, nor bring nor prefer any bill in equity against each other, of and concerning the premises in question, so as aforesaid referred: And it is further ordered, by and with such consent as aforesaid, that if either party shall, by affected delay or otherwise, wilfully prevent the said arbitrators, or any or either of them, from making an award, he or they shall pay such costs to the other, as this court shall think reasonable and just.

By the Court.

B. } Upon hearing the attornies or agents on both sides, (§ 2.)
v. } and by their consent, I order, that all matters in Judge's order
D. } difference in this cause be referred to the award, of reference, to
order, arbitrament, final end and determination of *E. P.* a single arbi-
of —, so as he shall make and publish his award in trator, in K. B
writing, of and concerning the premises, on or before the
— day of — next: And by the like consent, I order, that
the costs of this action shall abide the event of his award;
and that the costs of such reference shall be in the discretion
of the said arbitrator: And by the like consent, I order, that
the parties, and their respective witnesses, may be examined
by the said arbitrator upon oath, to be sworn before any
judge of the court of King's Bench, or a commissioner for
taking affidavits in the said court; and that the parties shall
produce before the said arbitrator, all books, papers and writ-
tings, in their custody or power, touching the matters in
question: And by the like consent, I order, that if either of
the said parties shall wilfully prevent the said arbitrator from
making an award, such party shall pay such costs to the other,
as the said arbitrator shall think just: And by the like con-
sent, I do further order, that the plaintiff shall be entitled to
center

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enter up judgment, as of next term, for such sum (if any,) as shall be awarded due to the plaintiff, by the said arbitrator: And by the like consent, I do lastly order, that this order shall be made a rule of the court of King's Bench, if the same court shall so please. Dated the — day of — 18—.

Ellenborough.

(§ 5.)
The like
special,
verbal arbitra-
tion, B.

B. } Upon hearing the attornies on both sides, and by
C. } their consent, I do order, that all matters in differ-
D. } rence between the parties in this cause, be referred
to the award, order, arbitrament and determination of *E. F.* of — and *G. H.* of —, and of such third person as the said *E. F.* and *G. H.* shall, by a *memorandum* in writing under their hands, to be indorsed hereon, nominate or appoint in this behalf, or of any two of them, so as they the said *E. F.* and *G. H.* and such third person so to be nominated or appointed as aforesaid, or any two of them, shall and do make and publish their award in writing, under their hands, ready to be delivered to the said parties in difference, or either of them, if they or either of them shall require the same, on or before the — day of — next, or on or before such further or ulterior day as the said arbitrators, or any two of them, shall appoint and signify in writing under their hands, to be indorsed on these presents, and his majesty's court of King's Bench, or one of the judges thereof, shall order: And by the like consent, I do also order, that the said parties in difference shall and will respectively produce and leave with the said arbitrators, or as they or any two of them shall direct or appoint, all books, papers, writings, vouchers or documents, in the custody possession or power of either of the said parties in difference, relating to the matters hereby to them referred, necessary in the judgment of the said arbitrators, or any two of them, for enabling them to judge and decide concerning the premises; and that the said arbitrators, or any two of them, shall be, and they are hereby empowered and authorized, if they or any two of them shall think fit, or if required by either of the said parties, to examine all or any person or persons, produced as a witness or witnesses by either party, upon oath, or solemn affirmation if quakers, to be taken before a judge of his majesty's court of King's Bench

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Bench at *Westminster*, or a commissioner of the same court; and also that the said arbitrators hereby appointed; or any two of them, shall be at liberty to proceed *ex parte*, in case of the non-attendance of either of the said parties in difference, or of their witnesses, after six days previous notice in writing, under the hands of the said arbitrators, or any two of them, given to the said parties in difference respectively, or left at his or their then last known respective place or places of abode, notifying the time and place of meeting, to proceed in the said reference: And by the like consent, I do further order, that neither of the said parties in difference shall bring or prosecute any action or suit, at law or in equity, nor file any bill or bills in equity, against the other, or against the said arbitrators, or any of them, touching the matters hereby referred, or agreed to be referred as aforesaid; and that the costs of the action, commenced against the said *C. D.* shall abide the event of the said award; and that the costs of the said reference, and the award to be made in pursuance thereof, and all other costs and charges incidental thereto, shall be in the discretion of the said arbitrators, who shall direct and award, by and to whom, and in what manner, the same shall be paid: And by the like consent, I further order, that in case the said arbitrators shall make their award before the said — day of —, and in favour of the plaintiff, any sum or sums of money that may be found due to the plaintiff, shall not be awarded to be paid before that day: And by the like consent, I further order, that this order shall and may be made a rule of his said majesty's court of King's Bench at *Westminster*, if the same court shall so please.

Ellenborough.

London, } At the sitting of *nisi prius*, held at *Guildhall* in
to wit. } and for the city of *London*, on — the
day of — in the year of our Lord 18—, and
in the — year of the reign of our sovereign
lord *George* the third, now king of the united
kingdom of *Great Britain* and *Ireland*, &c. be-
fore the right honourable *Edward* Lord *Ellenbo-*
rough, chief-justice of our lord the king, as-
signed to hold pleas before the king himself.

(§ 4.)
Order of refe-
rence, at *nisi*
prius, in K. B.

It

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B. } It is ordered by the court, by and with the consent of
v. } the plaintiff and defendant, their counsel and attornies,
D. } that the last jury-man sworn and impanelled in this
cause, be withdrawn out of the panel; and that all matters
in difference, between the said parties, be referred to the award,
order, arbitrament, final end and détermination of, (&c.) so
as he shall make and publish his award in writing, of and
concerning the premises in question, on or before the —
day of — term now next ensuing; and that the said parties
shall and do perform, fulfil and keep such award, so to be
made by him the said arbitrator as aforesaid: And it is also
ordered, by and with such consent as aforesaid, that the costs
of the said cause shall abide the event and determination of
the said award; and that the costs of the said reference shall
be in the discretion of the said arbitrator, who shall direct and
award by whom, and to whom, and in what manner the same
shall be paid: And it is likewise ordered, by and with such
consent as aforesaid, that the plaintiff and defendant respec-
tively shall be examined upon oath, to be sworn before the
said lord chief-justice, or some other justice of the same court
of our lord the king before the king himself, or before a
commissioner appointed for taking affidavits in the country, if
thought necessary by the said arbitrator; and do produce
before the said arbitrator, all books, papers and writings,
touching and relating to the matters in difference between
the said parties, as the said arbitrator shall think fit; and that
the witnesses of the plaintiff and defendant respectively shall
be examined upon oath, to be sworn before the said lord chief-
justice, or some other justice of the same court of our said lord
the king before the king himself, or before such commis-
sioner as aforesaid: And it is likewise ordered, by and with
such consent as aforesaid, that neither the plaintiff nor the
defendant shall prosecute or bring any action or suit, in any
court of law or equity, against the said arbitrator, nor bring
nor prefer any bill in equity against each other, of and con-
cerning the premises in question, so as aforesaid referred:
And it is further ordered, by and with such consent as afore-
said, that if either party shall by affected delay, or otherwise,
wilfully prevent the said arbitrator from making an award,
he shall pay such costs to the other, as the said court of our
said

said lord the king before the king himself, shall think reasonable and just: And lastly, it is ordered, by and with such consent as aforesaid, that the said court of our said lord the king before the king himself may be prayed, that this order may be made a rule of the same court.

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Know all men by these presents, that I *C. D.* of — am held and firmly bound to *A. B.* of — in — pounds, of good and lawful money of *Great Britain*, to be paid to the said *A. B.* or his certain attorney, executors, administrators or assigns; for which payment well and truly to be made, I bind myself, my heirs, executors and administrators, firmly by these presents: Scaled with my seal. Dated the — day of —, in the — year of the reign of our sovereign lord *George* the third, by the grace of God, of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—. (§ 5.) Arbitration-bond, on a reference to two, with a clause of umpirage.

The condition of this obligation is such, that if the above-bounden *C. D.* his heirs, executors and administrators, and every of them, do and shall, for his and their part and behalf, in all things well and truly stand to, obey, abide, observe, perform, fulfil and keep the award, order, arbitrament, final end and determination of *E. F.* of —, and *G. H.* of —, arbitrators indifferently named, elected and chosen, as well by and on the part and behalf of the above-bounden *C. D.* as of the above-named *A. B.* to arbitrate, award, order, judge and determine, of and concerning all and all manner of action and actions, cause and causes of action, suits, bills, bonds, specialties, judgments, executions, extents, quarrels, controversies, trespasses, damages and demands whatsoever, both at law and in equity, at any time or times heretofore had, made, moved, brought, commenced, sued, prosecuted, done, suffered, committed or depending, by and between the said parties, so as the said award be made in writing, on or before the — day of — now next ensuing; but if the said arbitrators do not make such their award, of and concerning the premises, by the time aforesaid, then if the said *C. D.* his heirs, executors and administrators, do and shall, for his and their part and behalf, in all things well and truly stand to, obey, abide, observe, perform, fulfil and keep the

CHAP. the award, order, arbitrament, umpirage, final end and de-
 XXXIV. termination of *I. K.* of —, a person indifferently named
 and chosen as an umpire between the said parties, of and con-
 cerning the premises, so as the said umpire do make his
 award and umpirage in writing, of and concerning the pre-
 mises, on or before the — day of — now next ensuing ;
 then this obligation to be void, or else to remain in full force
 and virtue : And the said *C. D.* doth consent and agree, that
 his submission to the award or umpirage above-mentioned,
 shall be made a rule of his majesty's court of King's Bench
 at *Westminster*, pursuant to the statute in such case made and
 provided.

C. D.

Sealed, (&c.)

(§ 6.)
 Affidavit of the
 due execution
 thereof.

In the King's Bench,
 (Common Pleas, or
 Exchequer of Pleas.)

L. M. of — maketh oath and saith, that he was present at
 the time of signing and sealing the bond or obligation here-
 unto annexed ; and that *C. D.* of — therein mentioned, did
 duly sign, seal, and as his act and deed deliver, the said bond,
 in the presence of this deponent ; and that the name *C. D.* set
 and subscribed to the said bond, is of the proper hand-writ-
 ting of the said *C. D.* and that the name *L. M.* set and sub-
 scribed as the witness thereto, is of the proper hand-writing
 of this deponent.

L. M.

Sworn, (&c.)

(§ 7.)
 Appointment
 of a third per-
 son as arbitra-
 tor.

We the within-named *E. F.* and *G. H.* do by this *memo-*
randum, under our hands, made before we enter or proceed
 on the arbitration within-mentioned, declare that we have
 nominated and appointed, and do hereby nominate and ap-
 point, Mr. *I. K.* of — the third person or arbitrator, to
 whom, together with ourselves, all matters in difference be-
 tween the said parties shall be referred, according to the te-
 nor and effect of the within rule. Witness our hands, this
 — day of — 18—.

E. F.

G. H.

We

We the under-signed arbitrators do hereby appoint, and signify by this writing, under our hands, the — day of — next ensuing the date hercof, a further and ulterior day; on or before which said day, the award in writing of and concerning the matters in difference within-mentioned and referred, shall be made and published. Dated this — day of — 18—.

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(§ 8.)
Appointment
of a further day,
to make an
award.

E. F.
G. H.
I. K.

— on (or next after) — in the — year of king
George the Third.

(§ 9.)
Rule of court,
to enlarge the
time for ma-
king an award,
in K. B.

B. } Upon reading the rule made in this cause, on —
C. } next after — in — term last past, it is ordered,
D. } that the time limited for the arbitrators in the said
rule named making their award in this cause, be enlarged,
(or further enlarged,) until the — day of — next ensuing,
inclusive. Upon the motion of Mr. —.

By the Court.

To all to whom these presents shall come, we *E. F.* of —
G. H. of — and *I. K.* of — send greeting: Whereas
by a rule of his majesty's court of King's Bench at *West-*
minster, made on — next after — in the — year of the
reign of king *George the third*, in a cause then depending in the
said court, wherein *A. B.* was plaintiff and *C. D.* was defend-
ant, after reciting as therein was recited, it was ordered,
(upon hearing counsel for the plaintiff and defendant,) that
all matters in difference between the said parties, should be
referred to the award, order, arbitrament, final end and de-
termination of us *E. F.* and *G. H.* and of such third person
as we should, by *memorandum* under our hands, to be in-
dorsed on the said rule, before we proceeded on the said
arbitration, nominate and appoint, or of any two of us, so as
we the said arbitrators, or any two of us, should make our
award in writing, of and concerning the premises in question,
on or before the — day of — then next, or on or before
such further or ulterior day, as we the said arbitrators, or any
two of us, should ultimately appoint and signify in writing
under our hands, to be indorsed on the said rule, and
the

(§ 10.)
Award, in fa-
vour of plain-
tiff, on a rule of
court, in K. B.

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the said court, or one of the judges thereof, should order ; and that the said parties should perform, fulfil and keep such award, so to be made by us the said arbitrators, or any two of us ; and it was further ordered, by and with such consent as aforesaid, that the costs of the said cause, and of the said reference, or in any manner relative thereto, should abide the event of the said award or umpirage. And whereas we the said *E. F.* and *G. H.* by virtue of the authority given us by the said in part recited rule, did nominate and appoint the said *I. K.* to act with us in the said reference, before we proceeded on the same : And whereas the time limited for making our said award has been duly enlarged, until the — day of — instant : Now know ye, that we the said *E. F.* *G. H.* and *I. K.* in pursuance of the said rule of reference, having heard the said parties, by themselves and their attorneys, their allegations and answers, touching and relating to the matters in difference between them, examined their witnesses upon oath, and maturely considered thereon ; do award, order, adjudge, find and determine, of and upon the premises, in manner following, (that is to say :) We do award and order, that the defendant shall and do pay to the plaintiff, or his assigns, the sum of —*l.* which we find to be due and owing to the said plaintiff, on a settlement of all accounts, dealings and transactions between him and the defendant, and so referred to us as aforesaid : And we do also award and order, that the plaintiff shall and do pay unto Mr. — of —, upon the delivery of this our award, the sum of —*l.* for the costs of us the said arbitrators in the said reference, the drawing our award, and the stamps used for the same. In witness whereof, we have hereunto respectively set our hands, the — day of — 18—.

Signed and published, being first duly
stamped, in the presence of

L. M.

E. F.

G. H.

I. K.

(§ 11.)
The like, on a
judge's order,
in K. B.

To all to whom these presents shall come, I *E. F.* of — send greeting : Whereas by an order of the right honourable *Edward Lord Ellenborough*, chief-justice of his majesty's court of King's Bench at *Westminster*, dated the — day of — last, and made in a certain cause, then and now depending in
the

the same court, wherein *A. B.* is plaintiff and *C. D.* is defendant, the said chief-justice, upon hearing the attornies or agents on both sides, and by their consent, did order, (amongst other things,) that all matters in difference in the said cause should be referred to the award, order, arbitrament, final end and determination of me the said *E. F.* so as I should make and publish my award in writing, of and concerning the premises, on or before the — day of — then and now next : And by the like consent, the said chief-justice did further order, that the costs of the said action should abide the event of my award ; and that the costs of such reference should be in the discretion of me the said arbitrator : And by the like consent, the said chief-justice did further order, that the parties, and their respective witnesses, might be examined upon oath, to be sworn before any judge of the court of King's Bench, or a commissioner for taking affidavits in the said court ; and that the parties should produce before me the said arbitrator, all books, papers and writings, in their custody or power, touching the matters in question ; and that the said order should be made a rule of the said court of King's Bench, if the same court should so please ; as by the said order more fully appears : Now know ye, that I the said *E. F.* the arbitrator aforesaid, having taken upon me the burthen of the said arbitrament, and having heard, examined and considered the allegations and proofs of both the said parties, concerning the premises, do thereupon make this my award in writing, concerning the same, in manner following, (that is to say :) I do award, adjudge and determine, that all further proceedings in the said cause shall from henceforth cease, and be no further prosecuted ; and that the said *C. D.* shall and do, on the — day of — instant, (or next,) between the hours of — and — of the clock of the same day, well and truly pay, or cause to be paid, unto the said *A. B.* or his attorney Mr. *G. H.* of — at —, the sum of — *l.* of lawful money of *Great Britain*, in full of all demands in the said cause ; and that upon payment thereof, the said *A. B.* shall, if required so to do, by and at the costs of the said *C. D.* execute and deliver to him the said *C. D.* a general release in writing, of all and all manner of action and actions, cause and causes of action, debts, duties, claims and demands whatsoever, from the beginning of the world, until the day

of

CHAP. of the date of the aforesaid order : And lastly, I do award and
XXXIV. direct, that each of them the said *A. B.* and *C. D.* shall and
do bear and pay his own costs, of the reference; and of this
my award. In witness whereof, I the said *E. F.* the arbitra-
tor aforesaid, have hereunto set my hand, (&c.)

(§ 12.)
The like, on an
order of *nisi*
prius, in K. B.

To all to whom these presents shall come, I *E. F.* of ———
send greeting: Whereas at the sitting at *nisi prius*, holden
at the *Guildhall* of the city of *London*, (or, at *Westminster-*
hall, in the great hall of pleas there, in and for the county
of *Middlesex*;) on ——— the ——— day of ——— 18—, before the
right honourable *Edward Lord Ellenborough*, chief-justice of
our lord the king, assigned to hold pleas before the king him-
self, a cause came on to be tried, whercin *A. B.* was plaintiff
and *C. D.* defendant; and thereupon a certain order of *nisi*
prius was then and there made, whereby it was ordered by the
court, by and with the consent of the plaintiff and defendant,
their counsel and attornies, that the said cause, and all other
matters in difference between the parties, should be referred
to the award, order, arbitrament, final end and determination
of me the said *E. F.* so as I should make and publish my
award in writing, of and concerning the premises in ques-
tion, on or before the ——— day of ——— term then and now
next ensuing; and it was also ordered, by and with such con-
sent as aforesaid, that the costs of the cause should abide the
event and determination of the said award; and that the
costs of the reference should be in the discretion of me the
said arbitrator, who should direct and award by whom, and
to whom, and in what manner the same should be paid: Now
know ye, that I the said *E. F.* having taken upon myself
the said reference, and having heard, examined and consid-
ered the several allegations and proofs of the said parties
respectively, do, in pursuance of the said reference, make and
publish this my award in writing, of and concerning the mat-
ters so referred to me as aforesaid, in manner following, (that
is to say): I do find and adjudge, that the said *A. B.* is justly
and truly entitled to recover from the said *C. D.* in the said
cause, the sum of ———*l.*; and I do award and order the said
C. D. on ——— the ——— day of ——— instant, to pay or cause
to be paid to the said *A. B.* or to Messrs. *G. H.* and *I. K.*
his attornies, to and for his use, at their office situate at ———,
between

between the hours of — and — on that day, the said sum of —*l.*; and I do adjudge and award, that, the said *C. D.* shall bear and pay all the costs of attending me in this reference: And further I do award, that the said *A. B.* shall, upon the delivery of this my award, pay all the costs and charges attending the same; which said last mentioned costs and charges, I do hereby order and direct the said *C. D.* forthwith to repay to the said *A. B.* In witness whereof, (&c.)

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To all to whom these presents shall come, I *E. F.* of — send greeting: Whereas at the sitting at *nisi prius*, &c. (as in the last, stating the order to be, that the jury should find a verdict for the plaintiff, damages —*l.* and costs forty shillings, subject to the said order, and the award to be made pursuant thereto; and that all matters in difference in the said cause, between the parties, should be referred, &c. as in the last.) Now know ye, that I the said *E. F.* having taken upon myself the said reference, (&c.) do hereby make and publish my award in writing, of and concerning the several matters above referred to me, in manner following, (that is to say:) I do award and order, that the damages found by the jury, shall be reduced to the sum of —*l.* for which sum the plaintiff may enter up his judgment; and that the said defendant shall also pay to the plaintiff the costs of the reference, the same being first taxed by the proper officer of the said court of King's Bench. In witness whereof, (&c.)

(§ 13.)

The like, reducing the amount of the damages.

To all to whom these presents shall come, I *E. F.* of — send greeting: Whereas at the sitting at *nisi prius* after — term last, holden at the *Guildhall* of the city of *London*, (or, at *Westminster*, in the great hall of pleas there, in and for the county of *Middlesex*;) on — the — day of — in the year of our Lord 18—, before the right honourable Sir *Vicary Gibbs* knight, lord chief-justice of his majesty's court of Common Pleas at *Westminster*, a certain order was made, in a certain cause then depending in the same court, wherein *A. B.* was plaintiff and *C. D.* was defendant, whereby (amongst other things,) it was ordered by the court, by and with the consent of all parties, their counsel and attornies, that the jury should find a verdict for the plaintiff, for —*l.* damages, subject to the award, order, arbitrament, final end and determination

(§ 14.)

The like, on an order of *nisi prius*, in C. P. that the plaintiff had no cause of action.

CHAP. XXXIV. mination of me *E. F.* of —, to whom all matters in difference between the said parties were, thereby referred, so as I the said arbitrator did and should make and duly publish my award in writing, of and concerning the matters referred, ready to be delivered to the said parties, or to either of them, requiring the same, on or before the — day of — term next ensuing the day of the date of the said order, or on or before any other day, to which I the said arbitrator should enlarge the time for making my said award; and by the like consent it was also ordered, that I the said arbitrator should and might be at liberty, if I should think fit, to examine the parties to that suit upon oath; and for that purpose, the said parties, and also the witnesses be examined before me the said arbitrator, touching the matters referred, should and might be sworn before the right honourable the lord chief-justice, or some other judge of his majesty's said court of Common Pleas; and that the said parties should produce before me the said arbitrator, all books, deeds, papers and writings whatsoever, in their or either of their custody or power, relating to the matters in difference: And by the like consent, it was also ordered, that the costs of the said suit should abide the event of the said award, so to be made and published as aforesaid, to be taxed; and that the costs of the reference should be in the discretion of me the said arbitrator; as by the said order more fully appears: Now know ye, that I the said *E. F.* the arbitrator aforesaid, having taken upon me the burthen of the said arbitrament, and having heard, examined and considered the allegations and proofs of both the said parties, concerning the premises do thereupon make this my award in writing concerning the same, in manner and form following, (that is to say:) I do award, adjudge and determine, that at the time of commencing the said suit, the said *A. B.* had no cause of action whatever against the said *C. D.* in respect of the said matters, to me referred; and I do thereupon award, order and direct, that a verdict in the said action be entered for the said *C. D.*: And I do further award, order and direct, that the said *A. B.* and *C. D.* shall respectively bear and pay their own costs of the reference, and of this my award. In witness whereof, (&c.)

To all to whom these presents shall come, I *E. F.* of — send greeting: Whereas divers differences and disputes having arisen, and being depending, between *A. B.* of, — and *C. D.* of —, they the said *A. B.* and *C. D.* in order to put a final end to the said differences and disputes, did agree to refer the same to the award, order and determination of me the said *E. F.*; and did accordingly, by their several obligations, dated the — day of — instant (or last), respectively become bound, each to the other, in the penal sum of — *l.* of good and lawful money of *Great Britain*, with conditions thereunder written, to stand to, obey, abide, observe, perform, fulfil and keep the award, order, arbitrament, final end and determination of me the said *E. F.* an arbitrator indifferently elected and named, as well on the part and behalf of the said *A. B.* as of the said *C. D.* to arbitrate, award, order, judge and determine, of and concerning all and all manner of action and actions, cause and causes of action, suits, bills, bonds, specialties, covenants, contracts, promises, accounts, reckonings, sums of money, judgments, executions, extents, quarrels, controversies, trespasses, damages and demands whatsoever, both in law and equity, at any time theretofore had, made, moved, brought, commenced, sued, prosecuted, done, suffered, committed or depending, by or between the said parties, or either of them, so as the said award of me the said arbitrator should be made in writing, and ready to be delivered to the said parties in difference, or such of them as should require the same, on or before the — day of — then next; as by the said obligations and conditions more fully appears: Now know ye, that I the said *E. F.* the arbitrator aforesaid, having taken upon me the charge of the said award and arbitrament, and having been attended by the said parties and their respective attornies, and having heard, examined and considered the allegations and evidence of both the said parties and their witnesses, concerning the premises, do thereupon make this my award in writing, concerning the same, in manner and form following, (that is to say:) I do award, arbitrate and determine, that the said *C. D.* his executors or administrators, shall and do well and truly pay, or cause to be paid, to the said *A. B.* his executors or administrators, on — the — day of — next ensuing, between the hours of — and — of the clock of the same day, at the house of —, of —,

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XXXIV.
(§ 15.)
The like, on
arbitration-
bonds.

CHAP. the sum of — *l.* of lawful money of *Great Britain*: And I
 XXXIV. do further, award, arbitrate and determine, that upon payment
 of the said sum of — *l.* to the said *A. B.* as aforesaid, they
 the said *A. B.* and *C. D.* shall respectively sign, seal, and as
 their respective acts and deeds deliver, each unto the other
 of them, mutual general releases in writing, of all and all
 manner of action and actions, cause and causes of action, bills,
 bonds, specialties, controversies, claims and demands whatso-
 ever, from the beginning of the world, until the day of the
 date of the aforesaid obligations. In witness whereof, (&c.)

(§ 16.) In the Common Pleas.

Rule for mak-
 ing a submis-
 sion to arbitra-
 tion, by bond, a
 rule of court,
 in C. P.

— term, (&c.)
B. Upon reading the affidavit of *L. M.* and also the bond
v. and condition thereof thereunder written, executed by
D. the said *C. D.*; the tenor of which said bond and con-
 dition is in the words and figures following, (that is to say:)
 Know all men, &c. (to the end of the bond, and condition:)
 Now, upon reading the bond and condition aforesaid, it is
 ordered, that the said bond, and the condition thereof, and
 the submission between the said parties in the said condition
 mentioned, be, and the same is hereby made a rule of this
 court, pursuant to the statute in such case made and provided.

By the Court.

(§ 17.) In the King's Bench, (&c.)

Affidavit of the
 due execution
 of award.

I. K. of — maketh oath and saith, that he this deponent
 did see *E. F.* of — sign, seal, publish and declare his award
 and arbitrament in writing, between *A. B.* of — and *C. D.*
 of —, bearing date the — day of — 18—. And this
 deponent further saith, that the name *E. F.* set and subscribed
 to the said award, as the party executing the same, is of the
 proper hand-writing of the said *E. F.*; and that the names
I. K. and *L. M.* set and subscribed thereto, as witnesses at-
 testing the execution of the said award, are of the respective
 hand-writing of this deponent, and the said *L. M.*

I. K.

Sworn, (&c.)

In the King's Bench, (&c.)

A. B. of — maketh oath and saith, that he this deponent did, on the — day of — last, personally attend, from the hour of — until the hour of — in the forenoon of the same day, at —, (the time and place mentioned in the award,) for the purpose of receiving the sum of —*l.* awarded to this deponent, pursuant to a certain award in writing, which is hereunto annexed; but the said *C. D.* did not attend at the time and place aforesaid, or pay to this deponent the said sum of —*l.* or any part thereof: And this deponent further saith, that on — next after — in this present — term, the submission of this deponent and the said *C. D.* to the said award, contained in a certain bond or obligation, bearing date the — day of — 18—, was made a rule or order of this honourable court; and that he this deponent did, on the — day of — last, personally serve the said *C. D.* with a true copy of the said rule or order and award, and at the same time shewed him the said original rule or order and award, and demanded of him the payment of the said sum of —*l.* so awarded to this deponent as aforesaid; but the said *C. D.* did not then, or at any time afterwards, pay the same, or any part thereof, to this deponent, and the said sum of —*l.* now remains wholly due and owing to this deponent.

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(§ 18.)
Affidavit of de-
mand and re-
fusal, &c. to
ground attach-
ment.

A. B.

Sworn, (&c.)

In the King's Bench, (&c.)

A. B. plaintiff,
and
C. D. defendant.

(§ 19.)
The like, of the
sum awarded,
and taxed costs.

A. B. of — the plaintiff in this cause, maketh oath and saith, that he this deponent did, on the — day of — last, personally serve the above-named defendant, with a true copy of the rule and *allocatur*, and also a true copy of the award hereunto annexed, and at the same time shewed him the said original rule, *allocatur* and award, and demanded of him the payment of the sum of —*l.* awarded to this deponent by *E. F.* of — the arbitrator named in the said award, and also the payment of the sum of —*l.* for the costs allowed to him this deponent in the said cause; but the said defendant refused to pay the same, or any part thereof, and the said sums of

CHAP. of —l. and —l. still remain wholly due and owing from
XXXIV. him the said defendant to this deponent.

A. B.

Sworn, (&c.)

(§ 20.) In the Common Pleas.

Rule nisi for an
attachment,
for non-pay-
ment thereof,
in C. P.

— term, (&c.)

Upon reading a rule made in this cause, on, (&c.) the affidavit of *I. K.* and the award of *E. F.* thereto annexed, and the affidavit of *A. B.* the plaintiff in this cause; it is ordered, that the defendant, upon notice of this rule to be given to him, shall shew cause to this court on — next, why an attachment of contempt should not be issued forth against him, for non-payment of the sum of —l. awarded due to the said plaintiff; and also for non-payment of the sum of —l. for the said plaintiff's costs, incurred in and about the said arbitration.

By the Court.

(§ 21.)

Rule to shew
cause, why
postea should
not be deliv-
ered to plaintiff,
after award, in
C. P.

Upon reading a rule, (&c.) the *allocatur* of Mr. Prothonotary — thereon made, and the affidavit of *A. B.* thereto annexed, the award of *E. F.* and the affidavit of *I. K.* of the due execution of the said award, thereto also annexed, it is ordered, that the defendant, upon notice, (&c.) shall shew cause, (&c.) why the *postea* in this cause should not be delivered up to him the said plaintiff, and that he may be at liberty to sign and enter up final judgment thereon, for the sum of —l. being the damages awarded to him by the said arbitration, together with the sum of —l. for his costs, pursuant to the said prothonotary's *allocatur*; and why the said defendant should not pay to the said plaintiff, or his attorney, his costs of, and occasioned by this application, (&c.) to be taxed, (&c.)

CHAP. XXXV.

Of TRIALS by the COUNTRY, and their INCIDENTS.

(After the award of the *venire facias*, proceed as follows :)

(§ 1.)

Entry of verdict, on a trial at bar, in K. B.

From which day, the jury aforesaid, between the parties aforesaid, of the plea aforesaid; was respited thereupon between them, before our lord the king at *Westminster*, until — next after — then next following, for default of the jurors, &c. At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attorneys aforesaid; and the jurors of that jury, being summoned, also come, who to speak the truth of the premises, being chosen, tried and sworn, say upon their oath, (&c.)

Afterwards, that is to say, on the day and at the place within contained, before the right honourable *Edward Lord Ellenborough*, the chief-justice within-mentioned, *Wesley Lane* Esquire being associated unto the said chief-justice, (or, in the Common Pleas, before the right honourable Sir *Vicary Gibbs* knight, the chief-justice within-mentioned, — being associated unto the said chief-justice,) according to the form of the statute in such case made and provided, (or, in the Exchequer, before the right honourable Sir *Alexander Thomson* knight, the chief-baron within-mentioned,) comes the within-named *A. B.* by his attorney within-mentioned, and the within-named *C. D.* although solemnly required, comes not, but makes default; therefore let the jurors of the jury, whereof mention is within made, be taken against him by his default: And the jurors of that jury, being summoned, also come, who, to speak the truth of the matters within-contained, being chosen, tried and sworn, say upon their oath, that the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages of the said *A. B.* on occasion of the not performing the promises and undertakings within-mentioned, over and above his

(§ 2.)

Postea for the plaintiff, on psit, in a town-cause here the defendant makes default.

CHAP. his costs and charges, by him about his suit in this behalf ex-
XXXV. pended, to —/l. and for those costs and charges to forty
shillings : Therefore, (&c.)

(§ 3.)
The like, where
the defendant
appears.

Afterwards, that is to say, on the day and at the place within contained, before the right honourable *Edward Lord Ellenborough*, &c. (as in the last,) come as well the within-named *A. B.* as the within-named *C. D.* by their respective attornies within-mentioned ; and the jurors of the jury, whereof mention is within made, being summoned, also come, who, to speak the truth of the matters within contained, being chosen, tried and sworn, say upon their oath, &c. (as before.)

(§ 4.)
The like, with
a *tales*.

Afterwards, that is to say, on the day and at the place within contained, before the right honourable *Edward Lord Ellenborough*, &c. (as before, § 2.) comes the within-named *A. B.* by his attorney within-mentioned, and the within-named *C. D.* although solemnly required, comes not, but makes default ; therefore let the jurors of the jury, whereof mention is within made, be taken against him by his default : And the jurors of that jury, being summoned, some of them, that is to say, *E. F.* &c. (here name such of the jurors as appeared at the trial,) come, and are sworn upon that jury ; and because the residue of the jurors of the same jury do not appear, therefore others of the by-standers, being chosen by the sheriff of the county aforesaid, at the request of the said *A. B.* (or *C. D.*) and by the command of the said chief-justice, (if in *London* or *Middlesex* ; if at the assizes, “ by command of the said justices,”) are appointed anew, whose names are annexed to the within-written panel, according to the form of the statute in that case made and provided ; which said jurors so appointed anew, that is to say, *G. H.* &c. (naming the *tales-men*) being called, likewise come, who, together with the said other jurors before impanelled and sworn, being chosen, tried and sworn to speak the truth of the matters within contained, say upon their oath, that the said *C. D.* did undertake and promise, &c. (as before).

(§ 5.)
The like, at the
assizes.

Afterwards, that is to say, on the day and at the place within contained, before the right honourable *Edward Lord Ellenborough*, chief-justice (or, — one of the justices) assigned

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signed to hold pleas before the king himself, (or, before the right honourable Sir *Picary Gibbs* knight, chief-justice, or — one of the justices of our lord the king of the Bench; or, before the right honourable Sir *Alexander Thomson* knight, chief-baron, or — one of the barons, of the Exchequer of our lord the king,) and — one of the justices, or barons, (&c.) justices of our said lord the king, assigned to take the assizes in and for the county of —, according to the form of the statute, (&c.)

Afterwards, that is to say, on the day and at the place within contained, before — one of the justices, (or barons,) &c. and — Esquire, for this time associated to the right honourable *Edward Lord Ellenborough*, chief-justice of the said lord the king, assigned to hold pleas before the king himself, and to the said —, justices of the said lord the king, assigned to take the assizes in the county of —, according to the form of the statute, &c. (the presence of the said *Edward Lord Ellenborough* not being expected, by virtue of the writ of the said lord the king of *si non omnes*, &c.) comes the within-named *A. B.* &c. (or, come as well the within-named *A. B.* as the within-named *C. D.* &c.)

(§ 6.)
The like, where only one judge goes the circuit, in K. B.

Afterwards, that is to say, at the next general session of assize holden at *Lancaster*, in and for the county-palatine of *Lancaster* within-mentioned, upon — the — day of — in the — year of the reign of his present majesty king *George* the third, before — one of the justices of our said lord the king, (&c.) and — one of the justices of our said lord the king, (&c.) justices of our said lord the king at *Lancaster* aforesaid, cometh the within-named *A. B.* by his attorney, and prayeth to be done to him what the law requireth, in order to try the issue within-joined between him and the within-named *C. D.* and whereupon, by a writ of our said lord the king, the sheriff of the said county is commanded, that he cause to come before the said justices here at *Lancaster*, on — next to come, in the same session of assize, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. the same day is given to the said parties here, &c. At which day here, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by — his attorney; and

(§ 7.)
The like, in the county-palatine of *Lancaster*.

CHAP. and the sheriff, to wit, —, now returneth before the said
 XXXV. justices at *Lancaster*, the said writ of *venire facias* to him in form aforesaid directed, together with a panel of the names of the jurors to the same writ annexed, in all things served and executed; and the jurors thereupon impanelled come not: Therefore, by another writ of the said lord the king, the same sheriff of the county aforesaid is commanded, that he have their bodies before the said justices at *Lancaster*, on — next to come, in the same session, &c. At which day, to wit, on — in the — year of the reign, (&c.) come here as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; and the sheriff returneth before the same justices at *Lancaster*, the same writ, in all things served and executed; and thereupon the jurors impanelled and drawn by ballot, according to the form of the statute in such case made and provided, being called over, likewise come, who to speak the truth of the matters within-mentioned, being elected, tried and sworn, on their oath say, (&c.) And hereupon the said justices at *Lancaster* aforesaid, have prefixed to the said parties, — next to come, to be before the said lord the king (or in C. P. before the justices of the said lord the king, or in the Exchequer, before the barons of the Exchequer of the said lord the king) at *Westminster*, to hear judgment, &c.

(§ 8.)
 The like, in the
 county-pala-
 tine of *Durham*.

Afterwards, to wit, on the day of in the —
 year of the reign of our sovereign lord *George* the third, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, I *Shute*, bishop of *Durham*, did give in charge the record within written, between *A. B.* plaintiff and *C. D.* defendant, to *E. F.* and *G. H.* aldermen of *Durham*, and their fellows, justices itinerant of our said sovereign lord the king, in the county-palatine of *Durham* and *Sudberge*, at *Durham* aforesaid in the county aforesaid, so that the said justices might have the said record, at the next court of pleas of our said sovereign lord the king, to be holden at *Durham* aforesaid in the county aforesaid, next after the said record was delivered to them, to cause the verification of the issue therein specified to be made, as the law should direct in that behalf. At which day here, to wit, the said — day of — in the year aforesaid, come as well the said *A. B.* as the said *C. D.* in their proper persons; and
 the

the said *A. B.* desired to have done for him what the law directed, to try the issue aforesaid, between the said *A. B.* and the said *C. D.*; whereupon then and there, by a writ of our said sovereign lord the king, to the sheriff of the county aforesaid directed, the said sheriff was commanded, to cause to come before the justices of our said sovereign lord the king at *Durham* aforesaid, on the — day of — next following, at — of the clock in the forenoon of that day, twelve good and lawful men of the body of his county, each of whom had 10*l.* of lands tenements or rents by the year at least, by whom the truth of the matter might be the better known, and who neither to the said *A. B.* nor to the said *C. D.* were related by any affinity, to make a certain jury between the parties aforesaid, of the plea within mentioned, because as well the said *A. B.* as the said *C. D.* had put themselves upon that jury; the same day and hour were given to the parties aforesaid, here, &c. At which day and hour, to wit, at *Durham* aforesaid, before — one of the justices of his majesty's court of Common Pleas at *Westminster*, — one of the barons of his majesty's court of Exchequer, and their fellows, justices itinerant of our said sovereign lord the king, in the said county palatine of *Durham* and *Sadberge*, come as well the said *A. B.* as the said *C. D.* in their proper persons; and the sheriff, to wit, — esquire, did return before the said last-mentioned justices at *Durham* aforesaid, the said writ of *venire facias*, to him directed in form aforesaid, together with the panel of the names of the jurors, to the same writ annexed, in all things duly served and executed; and the jurors thereupon impanelled, being called, likewise come, who being ballotted, elected, tried and sworn, to speak the truth of the premises, say upon their oath, that the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath within thereof complained against him; and they assess the damages of the said *A. B.* by reason of the premises, besides his costs and charges by him laid out about his suit in this behalf, to —*l.* and for his said costs and charges, to 40*s.* And upon this the said last-mentioned justices here, to wit, at *Durham* aforesaid, appointed to the said parties a day, to wit, on — next coming, to be before our said sovereign lord the king, (or, in the Common Pleas, before the justices of our said lord the king of the Bench, or in
the

CHAP. the Exchequer, before the barons of the Exchequer of our said
 XXXV. lord the king) at *Westminster*, to hear judgment thereupon, &c. At which day, I the said *Shute* bishop of *Durham*, do send to our said sovereign lord the king, (or, in the Common Pleas, to the justices of our said lord the king of the Bench, or in the Exchequer, to the barons; &c.) the record within written, according to the tenor of the writ of *mittimus* of our said sovereign lord the king, to me thereupon directed, and hereunto annexed, together with the writ of *venire facias*, and the panel of the names of the jurors aforesaid, hereunto likewise annexed.

The answer of *Shute* bishop of *Durham*.

(§ 9.)
 The like, in the
 county-pala-
 tine of *Chester*.

Afterwards, that is to say, at the session of *Chester*, holden at *Chester* in the county of *Chester*, in the common hall of pleas of the said county, upon — the — day of — in the — year of the reign of our sovereign lord *George* the third, by the grace of God, of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, before the honourable Sir *William Garraw* knight, the said lord the king's chief-justice of *Chester*, and *Francis Burton* esquire, the said lord the king's other justice of the said county, being the next session for the said county after the within-written record was delivered to the said justices here, comes the within-named *A. B.* by — his attorney, and prays a writ of the said lord the king of causing to come before the said justices, upon — in this same session, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid here, &c. On which same — before the same justices here, come as well the said *A. B.* by his attorney, as the within-named *C. D.* by — his attorney; and — esquire, sheriff of the said county, doth now return here the said writ of causing to come, to him in form aforesaid directed, together with a panel of the jurors' names to that writ annexed, in every thing served and executed; and the jurors thereupon impanelled, being required, none of them came; therefore that jury was respited until — next in this session, for defect of jurors, &c. Therefore it is commanded to the sheriff of the said county, that he then have the bodies of the jurors aforesaid, &c.; the same day

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day is given as well to the said *A. B.* as to the said *C. D.* here, &c. On which — before the same justices here, come as well the said *A. B.* by his said attorney, as the said *C. D.* by his said attorney; and the said sheriff now returns here the said writ of having the bodies of the jurors aforesaid, to him in form aforesaid directed; together with a panel of the jurors' names to that writ annexed, in every thing served and executed; and the jurors thereupon impanelled, being required, that is to say, *E. F. G. H.*, (&c.) do come, and being chosen by ballot and sworn, according to the form of the statute in that case made and provided, upon their oath say, (&c.) Therefore the said justices prefix to the said parties, to be before the king himself (or in C. P. before the justices of the said lord the king, or in the Exchequer, before the barons of the Exchequer of the said lord the king) at *Westminster*, on — then and there to hear judgment.

Afterwards, at the court of our lord the king of *Portmote* of the city of *Chester*, holden at the same city, in the common-hall of pleas there, according to the use and custom of the same city hitherto obtained and used, from time whereof the memory of man is not to the contrary, upon — the — day of — in the — year of the reign of the same lord the king, before — esquire, mayor of the said city of *Chester*, being the next court of *Portmote* after this writ was delivered, here cometh the said *A. B.* by — his attorney, and prays the said lord the king's writ, to the sheriff of the said city of *Chester* to be directed, to cause to come before the said mayor, twelve free and lawful men of the said city, to try the said issue; and it is granted unto him, returnable here at the next court of *Portmote* of the said city of *Chester*, at the said city, in the said common-hall of pleas, before the mayor of the said city for the time being, to be held by adjournment, upon — the — day of — in the same year: At which next court of *Portmote* of the said city of *Chester*, held at the same city, in the said common-hall, upon — the said — day of — in the same year, before the same mayor of the said city, here come as well the said *A. B.* by his said attorney, as the said *C. D.* by — his attorney; and — and — sheriffs of the said city of *Chester*, now return the said writ of *venire facias*, to them in form aforesaid directed,

(§ 10.)
The like, in the
city of *Chester*

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rected, together with a panel of the jurors' names to that writ annexed, in every thing served and executed; and the jurors thereupon impanelled being called, to wit, *E. P. G. H.*, (&c.) do come, who, to say the truth of the premises, being chosen tried and sworn, say upon their oath, (&c.) And hereupon the said — esquire, mayor of the said city of *Chester*, prefixes — next after — for the parties aforesaid to be before the king himself (or in C. P. before the justices of the said lord the king, or in the Exchequer, before the barons of the Exchequer of the said lord the king) at *Westminster*, then and there to hear judgment.

(§ 11.)
The like, on
non assumpsit,
except as to a
sum tendered.

Say upon their oath, that the said *C. D.* did undertake and promise, to a larger amount than the within-mentioned sum of —*l.* (that is to say,) to the amount of the sum of —*l.* parcel of the several sums of money in the within declaration mentioned, in manner and form as the said *A. B.* hath within thereof complained against him; and they assess the damages of the said *A. B.* on occasion of the not performing the promises and undertakings within-mentioned, over and above the within-mentioned sum of —*l.* and his costs and charges by him about his suit in this behalf expended, to —*l.* and for those costs and charges to 40*s.* Therefore, (&c.)

(§ 12.)
The like, on
non assumpsit,
by one of several
defendants, where another
has let judgment go by
default.

Say upon their oath, that the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages of the said *A. B.* on occasion of the not performing the within-mentioned promises and undertakings, as well against the said *C. D.* as against the within-named *E. F.* over and above the costs and charges of the said *A. B.* by him about his suit in this behalf expended, to —*l.* and for those costs and charges to 40*s.* Therefore, (&c.)

(§ 13.)
The like, on
non assumpsit
infra sex annos.

Say upon their oath, that the said *C. D.* did within six years next before the day of exhibiting the bill (or by original, of suing out the original writ) of the said *A. B.* against the said *C. D.* in this cause, undertake and promise, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages, &c. (as before, p. 359, 60.)

Say

Say upon their oath, that the within-named *E. F.* in his life-time did undertake and promise, in manner and form as the said *A. B.* hath within in that behalf alledged; and they assess the damages, (&c.)

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(§ 14.)

The like, against an executor, on *non assumpsit* by the testator.

Say upon their oath, that the said *C. D.* on the day of exhibiting the within bill of the said *A. B.* (or by original, of suing out the original writ of the said *A. B.* in this behalf,) had divers goods and chattels, which were of the within-named *E. F.* at the time of his death, in the hands of him the said *C. D.* as executor of the last will and testament of the said *E. F.* to be administered, to the value of —*l.* as the said *A. B.* hath within in that behalf alledged; and they assess the damages, (&c.)

(§ 15.)
The like, on *plene administravit*.

Say upon their oath, that the said *C. D.* doth owe to the said *A. B.* the within-mentioned sum of —*l.* in manner and form as the said *A. B.* hath within in that behalf alledged; and they assess the damages of the said *A. B.* on occasion of the detaining the within debt, over and above his costs and charges by him about his suit in this behalf expended, to 1*s.* and for those costs and charges to 40*s.* Therefore, (&c.)

(§ 16.)
The like, on *nil debet*.

Say upon their oath, that the within-mentioned writing obligatory is the deed of the said *C. D.* as the said *A. B.* hath within in that behalf alledged; and they assess the damages, (as in the last.)

(§ 17.)
The like, on *non est factum*.

Say upon their oath, that the said *C. D.* did not pay to the said *A. B.* the within-mentioned sum of —*l.* or any part thereof, on the — day of — in the condition of the within writing obligatory mentioned, according to the form and effect of the said condition, in manner and form as the said *C. D.* hath within in that behalf alledged; and they assess the damages, (&c.)

(§ 18.)
The like, on *solvit ad diem*.

Say upon their oath, that the said *C. D.* did not indemnify, (&c.) but wholly refused and neglected so to do, contrary to the tenor and effect of the condition of the within-mentioned writing obligatory, in manner and form as the said *A. B.* hath within in that behalf alledged; and they assess the damages

(§ 19.)
The like, on an indemnity-bond, where damages are assessed on the stat. 8 & 9 W. III. c. 11. § 8.

of

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of the said *A. B.* on occasion of the detaining the within debt, over and above his costs and charges by him about his suit in this behalf expended, to 1*s.* and for those costs and charges to 40*s.* ; and they also assess the damages of the said *A. B.* on occasion of the breach of the said condition within assigned, according to the form of the statute in that case made and provided, to —*l.* Therefore, (&c.)

(§ 20.)
The like, where
non est factum
is pleaded.

— as to the issue within joined between the said parties, say upon their oath, that the within-mentioned writing obligatory is the deed of the said *C. D.* as the said *A. B.* hath within in that behalf alledged : And the jurors aforesaid, upon their oath aforesaid, further say, that the several matters within suggested, as and for a breach of the condition of the said writing obligatory, were and are true : And they assess the damages, &c. (as in the last.)

(§ 21.)
The like, on a
penal statute,
where part is
found for the
defendant.

as to the sum of —*l.* in the — count of the within declaration mentioned, parcel of the sum of —*l.* within demanded, upon their oath say, that the said *C. D.* doth owe the said sum of —*l.* to our said lord the king and the said *A. B.* who sues as aforesaid, in manner and form as the said *A. B.* who sues as aforesaid hath within complained against him ; and they assess the costs and charges of the said *A. B.* who sues as aforesaid, by him about his suit in this behalf expended, to 40*s.* And as to the residue of the said sum of —*l.* in the other counts of the within declaration mentioned, the jurors aforesaid, upon their oath aforesaid, say, that the said *C. D.* doth not owe the same, or any part thereof, to our said lord the king and the said *A. B.* who sues as aforesaid, as the said *C. D.* hath within in that behalf alledged. Therefore, (&c.)

(§ 22.)
The like, on
not guilty, in
case.

Say upon their oath, that the said *C. D.* is guilty of the premises within laid to his charge, in manner and form as the said *A. B.* hath within complained against him ; and they assess the damages of the said *A. B.* on occasion thereof, over and above his costs and charges by him about his suit in this behalf expended, to —*l.* and for those costs and charges to 40*s.* Therefore, (&c.)

Say

Say upon their oath, that the said *C. D.* is guilty of the several trespasses within laid to his charge, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages, (&c.)

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(§ 23.)
The like, on
not guilty, in
trespass.

— as to the first issue within joined between the parties aforesaid, upon their oath say, that the said *C. D.* is guilty of the several trespasses within laid to his charge, in manner and form as the said *A. B.* hath within complained against him : And as to the last issue within joined between the parties aforesaid, the jurors aforesaid upon their oath aforesaid say, that the said *C. D.* at the within-mentioned time when, &c. of his own wrong, and without any such cause as he the said *C. D.* hath within in that behalf alledged, assaulted, beat, bruised, wounded and ill-treated the said *A. B.* in manner and form as the said *A. B.* hath within complained against him; and they assess the damages, (&c.)

(§ 24.)
The like, on
several issues,
in trespass and
assault.

— as to the first issue within joined between the parties aforesaid, upon their oath say, that the said *C. D.* is not guilty of the trespasses within laid to his charge, except as hereinafter mentioned, in manner and form as the said *A. B.* hath within complained against him : And as to the second issue within joined between the parties aforesaid, the jurors aforesaid upon their oath say, that the said *C. D.* at the within-mentioned time when, &c. did not of his own wrong, but for such cause as he the said *C. D.* hath within in his last plea in that behalf alledged, assault, beat, bruise, wound and ill-treat the said *A. B.* as in the first count of the within declaration is mentioned : And as to the last issue within joined between the parties aforesaid, the jurors aforesaid upon their oath say, that the said *C. D.* is guilty of the trespass within anew assigned, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages of the said *A. B.* on occasion of the committing of the said last-mentioned trespass, over and above his costs and charges by him about his suit in this behalf expended, to ———/ and for those costs and charges to 40s. Therefore, (&c.)

(§ 25)
The like, on
not guilty to a
new assign-
ment, where
several issues
are found for
the defendant.

Say upon their oath, that the said *C. D.* is guilty of the several trespasses within laid to his charge, in manner and

(§ 26.)
The like, where
one defendant

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is found guilty,
and another
acquitted.

form as the said *A. B.* hath within complained against him; and they assess the damages of the said *A. B.* against the said *C. D.* on occasion thereof, over and above his costs and charges by him about his suit in this behalf expended, to —*l.* and for those costs and charges to 40*s.* And the jurors aforesaid upon their oath aforesaid further say, that the said *E. F.* is not guilty of the several trespasses within laid to his charge, in manner and form as the said *A. B.* hath within complained against him: Therefore, (&c.)

(§ 27.)
The like, where
some defend-
ants are acquit-
ted, and da-
mages assessed
against others,
who let judg-
ment go by de-
fault.

— as to the issue within joined between the said *A. B.* and the said *C. D.* and *E. F.* say upon their oath, that the said *C. D.* and *E. F.* are not guilty of the trespasses within laid to their charge, in manner and form as the said *A. B.* hath within thereof complained against them: And they assess the damages of the said *A. B.* against the within-named *G. H.* and *I. K.* on occasion of the premises within-mentioned, over and above his costs and charges by him about his suit in this behalf expended, to —*l.* and for those costs and charges to 40*s.* Therefore, (&c.)

(§ 28.)
Postea, where a
juror is with-
drawn.

— and the jurors of that jury, being summoned, also come, who to speak the truth of the matters within contained, were chosen tried and sworn; whereupon for certain causes, moving as well the said chief-justice (or justices), as the within-named plaintiff and defendant, *E. F.* one of the jurors of the said jury, is withdrawn from the panel thereof; and the residue of the jurors of that jury are altogether discharged from giving any verdict of and upon the premises within-mentioned, (&c.)

(§ 29.)
Postea for the
defendant, on
a nonsuit.

— and the jurors of that jury, being summoned, also come, who to speak the truth of the matters within contained, being chosen tried and sworn, withdrew (or, if the plaintiff be nonsuited after giving evidence, say, “after evidence being given to them thereupon, withdrew”) from the bar here, to consider of their verdict to be given of and upon the premises; and after they had considered thereof, and agreed among themselves, they returned to the said bar, to give their verdict in this behalf: upon which the said *A. B.* being solemnly called, comes not, nor does he further prosecute his bill (or writ) against the said *C. D.* Therefore, (&c.)

— and

— and the jurors of that jury, being summoned, also come, who to speak the truth of the matters within contained, were chosen tried and sworn; and on the behalf of the said *C. D.* *E. F.* and *G. H.* (the defendants,) it was given in evidence to the jurors aforesaid, that the said *C. D.* was an *headborough*, and that what he did was in the execution of his office of *headborough* aforesaid; and that what the said *E. F.* and *G. H.* respectively did, was in aid of the said *C. D.* and by his command; upon which the jurors aforesaid withdrew from the bar, &c. (as in the last.)

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(§ 30.)
The like, in
trespass
against a
peace-officer.

Say upon their oath, that the said *C. D.* did not undertake or promise, in manner and form as the said *A. B.* hath within complained against him; Therefore, (&c.)

(§ 31.)
The like, on a
verdict, on non
assumpsit.

Say upon their oath, that the said *C. D.* did not undertake or promise, in manner and form as the said *A. B.* hath within complained against him; and hereupon the said jurors are discharged from inquiring against the within-named *E. F.* what damages the said *A. B.* hath sustained, by reason of the premises within-mentioned: Therefore, (&c.)

(§ 32.)
The like, where
one defendant
had let judg-
ment go by de-
fault.

Say upon their oath, that the said *A. B.* was and is indebted to the said *C. D.* in manner and form as the said *C. D.* hath within in pleading alledged: Therefore, (&c.)

(§ 33.)
The like, on a
plea of set-off.

Say upon their oath, that the within-named *E. F.* in his life-time did not undertake or promise, in manner and form as the said *A. B.* hath within in that behalf alledged: Therefore, (&c.)

(§ 34.)
The like, for an
executor, on
non assumpsit
by the testator.

Say upon their oath, that the said *C. D.* on the day of exhibiting the within bill of the said *A. B.* (or by original, of suing out the original writ of the said *A. B.* in this behalf,) had not any goods or chattels, which were of the within-named *E. F.* at the time of his death, in the hands of him the said *C. D.* as executor of the last will and testament of the said *E. F.* to be administered, as the said *C. D.* hath within in pleading alledged: Therefore, (&c.)

(§ 35.)
The like, on
plene admi-
nistravit.

CHAP. Say upon their oath, that the said *C. D.* doth not owe to the
XXXV. said *A. B.* the within-mentioned sum of —*l.* or any part
 (§ 36.) thereof, as the said *A. B.* hath within in that behalf alledged :
 The like, on *nil debet.* Therefore, (&c.)

Say upon their oath, that the within-mentioned writing obligatory is not the deed of the said *C. D.* as the said *A. B.* hath within in that behalf alledged : Therefore, (&c.)

(§ 38.) — as to the first issue within joined between the parties
 The like, on the statute of usury, and for the plaintiff *non est factum.* aforesaid, upon their oath say, that the within-mentioned writing obligatory is the deed of the said *C. D.* as the said *A. B.* hath within in that behalf alledged : And as to the last issue within joined between the parties aforesaid, the jurors aforesaid upon their oath aforesaid say, that it was corruptly and against the form of the statute, (&c.) agreed between the said *A. B.* and the said *C. D.* in manner and form as the said *C. D.* hath within in pleading alledged : Therefore, (&c.)

(§ 39.) Say upon their oath, that the said *C. D.* is not guilty of the
 The like, on not guilty, in case. premises within laid to his charge, in manner and form as the said *A. B.* hath within complained against him : Therefore, (&c.)

(§ 40.) Say upon their oath, that the said *C. D.* is not guilty of the
 The like, on not guilty, in trespass. several trespasses within laid to his charge, in manner and form as the said *A. B.* hath within complained against him : Therefore, (&c.)

(§ 41.) Afterwards, that is to say, on the day and at the place
 Demurrer to evidence, by the defendant, where the damages are assessed conditionally at the assizes. within contained, before — one of the justices of our said lord the king assigned to hold pleas in the court of our said lord the king before the king himself, and — one of the barons of our said lord the king, of his court of Exchequer at *Westminster*, and others their fellows, justices of our said lord the king, assigned to take the assizes in and for the county of —, according to the form of the statute in such case made and provided, come as well the within-named *A. B.* as the within-named *C. D.* by their respective attornies within-mentioned ;

mentioned; and the jurors of the jury whereof mention is within made, being summoned, also come, and being chosen tried and sworn to say the truth of the matters within contained, the said *A. B.* to prove and maintain the issue within joined on his part, shews in evidence to the jury aforesaid, by *E. F.* a witness duly sworn in that behalf, that, &c. (here state the evidence on the part of the plaintiff:) And the said *C. D.* says, that the aforesaid matters to the jurors aforesaid in form aforesaid shewn in evidence by the said *A. B.* are not sufficient in law to maintain the said issue within joined on the part of the said *A. B.* and that he the said *C. D.* to the matters aforesaid, in form aforesaid shewn in evidence, hath no necessity, nor is he obliged by the law of the land to answer; and this he is ready to verify, wherefore for want of sufficient matter in that behalf shewn in evidence to the jury aforesaid, the said *C. D.* prays judgment, and that the jury aforesaid may be discharged from giving any verdict upon the said issue, and that the said *A. B.* may be barred from having his said action against the said *C. D.* &c.

And the said *A. B.* for that he hath shewn in evidence to the said jurors, sufficient matter in maintenance of the said issue, which matter the said *C. D.* doth not deny, nor in any manner answer thereto, prays judgment, and his damages by reason of the premises, to be adjudged to him, &c. Whereupon it is told to the jurors aforesaid, that they shall inquire what damages the said *A. B.* has sustained, as well by reason of the matter shewn in evidence as aforesaid, as for his costs and charges by him about his suit in this behalf expended, in case it shall happen that judgment shall be given upon the evidence aforesaid, for the said *A. B.* And the jurors aforesaid upon their oath aforesaid thereupon say, that if it shall happen that judgment shall be given for the said *A. B.* upon the evidence aforesaid, then they assess the damages of the said *A. B.* by him sustained, by reason of the matter shewn in evidence as aforesaid, besides his costs and charges by him about his suit in this behalf expended, to ——*l.* and for those costs and charges to ——*s.* And thereupon the said jurors, by the assent of the said parties, are discharged from giving any further verdict upon the premises.

(§ 42.)
Joinder in demurrer.

Afterwards,

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(§ 43.)

Demurrer to evidence, by the plaintiff, where the jury are discharged.

Afterwards, that is to say, on the day and at the place within contained, &c. (as in the last, *mutatis mutandis*, to the prayer at the end of the demurrer, which is as follows :) prays judgment, and that the jury aforesaid may be discharged from giving any verdict upon the said issue, and that his damages by reason of the premises within-mentioned may be adjudged to him, &c.

(§ 44.)

Joinder in demurrer.

And the said *C. D.* for that he hath shewn in evidence to the jury aforesaid, sufficient matter to maintain the said issue within joined, on the part of the said *C. D.* and which he is ready to verify; and forasmuch as the said *A. B.* doth not deny, nor in any manner answer the said matter, prays judgment, and that the said *A. B.* may be barred from having his aforesaid action against him, and that the jury aforesaid may be discharged from giving their verdict upon the said issue, &c. Wherefore let the jury aforesaid be discharged by the court here, by the assent of the parties, from giving any verdict thereupon.

(§ 45.)

Bill of exceptions, separate from the record, as to the effect of evidence, in *K. B.*

— to wit. Be it remembered, that in the term of — in the — year of the reign of our sovereign lord *George* the third, now king of the united kingdom of *Great Britain* and *Ireland*, &c. came *A. B.* by — his attorney, into the court of our said lord the king before the king himself at *Westminster*, and impleaded *C. D.* in a certain plea of trespass on the case upon promises; on which the said *A. B.* declared against him, that, &c. (set out the declaration and other pleadings, and then proceed as follows :) And thereupon issue was joined between the said *A. B.* and the said *C. D.* And afterwards, to wit, at the sittings of *nisi prius* held at the *Guildhall* of the city of *London* aforesaid, in and for the said city, on — the — day of — in the — year of the reign of our said lord the king, before the right honourable *Edward* Lord *Ellenborough*, chief-justice of our said lord the king, assigned to hold pleas in the court of our said lord the king before the king himself, *Ewan Law* esquire being associated unto the said chief-justice, according to the form of the statute in such case made and provided, the aforesaid issue

so joined between the said parties as aforesaid, came on to be tried by a jury of the city of *London* aforesaid, for that purpose duly impanelled, that is to say, *E. F.* of — and *G. H.* of — (&c.) good and lawful men of the said city of *London*: At which day, came there as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; and the jurors of the jury aforesaid, impanelled to try the said issue, being called, also came, and were then and there in due manner chosen and sworn to try the same issue; and upon the trial of that issue, the counsel learned in the law for the said *A. B.* to maintain and prove the said issue on his part, gave in evidence that, &c. (here set out the evidence on the part of the plaintiff, and afterwards that on the part of the defendant, and then proceed as follows:) Whereupon the said counsel for the said *C. D.* did then and there insist before the said chief-justice, on the behalf of the said *C. D.* that the said several matters so produced and given in evidence on the part of the said *C. D.* as aforesaid, were sufficient, and ought to be admitted and allowed as decisive evidence, to entitle the said *C. D.* to a verdict, and to bar the said *A. B.* of his action aforesaid; and the said counsel for the said *C. D.* did then and there pray the said chief-justice, to admit and allow the said matters so produced and given in evidence for the said *C. D.* to be conclusive evidence in favour of the said *C. D.* to entitle him to a verdict in this cause, and to bar the said *A. B.* of his action aforesaid: But to this the counsel learned in the law of the said *A. B.* did then and there insist before the said chief-justice, that the same were not sufficient, nor ought to be admitted or allowed to entitle the said *C. D.* to a verdict, or to bar the said *A. B.* of his action aforesaid; and the said chief-justice did then and there declare and deliver his opinion to the jury aforesaid, that the said several matters so produced and given in evidence on the part of the said *C. D.* were not sufficient to bar the said *A. B.* of his action aforesaid, and with that direction left the same to the said jury; and the jury aforesaid then and there gave their verdict for the said *A. B.* and — *l.* damages; whereupon the said counsel for the said *C. D.* did then and there, on the behalf of the said *C. D.* except to the aforesaid opinion of the said chief-justice, and insisted on the said several matters as an absolute bar to the said action: And inasmuch as the said several mat-

ters

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ters so produced and given in evidence on the part of the said *C. D.* and by his counsel aforesaid objected and insisted on as a bar to the action aforesaid, do not appear by the record of the verdict aforesaid, the said counsel for the said *C. D.* did then and there propose their aforesaid exception to the opinion of the said chief-justice, and requested him to put his seal to this bill of exceptions, containing the said several matters so produced and given in evidence on the part of the said *C. D.* as aforesaid, according to the form of the statute in such case made and provided; and thereupon the said chief-justice, at the request of the said counsel for the said *C. D.* did put his seal to this bill of exceptions, pursuant to the aforesaid statute in such case made and provided, on the said — day of — in the — year of the reign of his present majesty.

(§ 46.)
The like, to be
tacked to the
record, as to a
witness's being
bound to an-
swer a question
tending to dis-
grace him, in
K. B.

(After the end of the issue, and award of the *venire facias*, proceed as follows :)

Which said issue, in form aforesaid joined between the said parties, afterwards, to wit, at the sittings of *nisi prius*, held at *Westminster-hall* in and for the county of *Middlesex*, on — the — day of —, in the — year of the reign of our lord the now king, before the right honourable *Edward Lord Ellenborough*, chief-justice of our said lord the king, assigned to hold pleas in the court of our said lord the king before the king himself, *Ewan Law* esquire being associated unto the said chief-justice, according to the form of the statute in such case made and provided, came on to be tried by a jury of the said county of *Middlesex*, for that purpose duly impanelled : At which day, came there as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; and the jurors of the jury aforesaid, impanelled to try the said issue, being called, also came, and were then and there in due manner chosen and sworn to try the same issue : And upon the trial of that issue, one *E. F.* was produced and examined upon oath as a witness, by the counsel learned in the law for the said *A. B.* in support of the said action; and upon the cross-examination of the said *E. F.* by the counsel learned in the law for the said *C. D.* the said *E. F.* was asked by the said last-mentioned counsel, whether he had not been imprisoned, upon a conviction for forging a coal-meter's ticket : Whereupon the said chief-

chief-justice then and there interposed, and before the said *E. F.* had given any answer to the said question, declared and delivered his opinion, that the said *E. F.* was not bound to answer the said question ; and the said *E. F.* thereupon then and there refused to answer the same : And afterwards, at the said trial, the said chief-justice, in summing up the evidence given in the said cause to the jury aforesaid, did further declare and deliver his opinion to the said jury, that the said *E. F.*'s refusal to answer the said question threw no manner of discredit upon him the said *E. F.* ; and the jury aforesaid thereupon then and there gave their verdict for the said *A. B.* and — *L.* damages : Whereupon the said counsel for the said *C. D.* did then and there, on behalf of the said *C. D.* except to the aforesaid opinion of the said chief-justice, and insisted that the said *E. F.* was bound to answer the said question, and that his refusal to answer the same was, and ought to be considered by the said jury, as an impeachment of his credit : And inasmuch as the said several matters hereinbefore mentioned, do not appear by the record, &c. (as in the last).

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Of NEW TRIALS; and ARREST of JUDGMENT, &c.

(§ 1.)
Rule nisi, for a
new trial, in
K. B.

— on (or next after) — in the — year of king
George the Third.

B. } It is ordered, that the plaintiff (or defendant), upon
v. } notice of this rule to be given to his attorney, shall
D. } upon — next after — shew cause, why the ver-
dict (or nonsuit) obtained in this cause, should not be set
aside, and a new trial had between the parties; and in the
mean-time, that proceedings be stayed. Upon the motion of
Mr. —.

By the Court.

(§ 2.)
The like, for
setting aside a
verdict, and
entering a
nonsuit, or for
a new trial, in
C. P.

In the Common Pleas.

— term, (&c.)

B. } Upon reading the record of the issue joined between
v. } the said parties, it is ordered, that the plaintiff, upon
D. } notice of this rule to be given to his attorney or agent,
shall shew cause to this court, on — the — instant (or
next), why the verdict found for him on the trial of this
cause, at the last assizes holden for the county of —,
should not be set aside, and a nonsuit entered, or a new trial
had between the said parties; and in the mean-time, and un-
til this court shall otherwise order, i.e. the entry of final judg-
ment upon the said verdict be stayed, and the *postea* remain
in the hands of the associate.

By the Court.

(§ 3.)
Rule nisi, for
arresting the
judgment, in
K. B.

B. } It is ordered, that the plaintiff, upon notice, (&c.) shall
v. } upon; (&c.) shew cause, why the judgment on the ver-
D. } dict obtained in this cause, should not be arrested; and
in the mean-time, that proceedings be stayed. Upon the mo-
tion of Mr. —.

By the Court.

In

In the Common Pleas.

term, (&c.)

CHAP.
XXXVI.
(§ 4.)

Rule for arresting the judgment, in C. P.

B. } Upon reading the record of *nisi prius* between the
v. } said parties, it is ordered, that the entry of final judgment upon the verdict found for the plaintiff on the trial of this cause be stayed, until this court be moved on behalf of the plaintiff, and shall otherwise order. Let notice of this rule be given to the plaintiff, his attorney or agent; and let notice of the motion to discharge this rule be given to the defendant, his attorney or agent.

In the Common Pleas.

B. against *D.*

(§ 5.)
Notice of motion, to discharge the above rule.

Take notice, that this honourable court will be moved to-morrow, or so soon after as counsel can be heard, that the rule made in this cause, the — day of — last, may be discharged.

Your's, &c.

E. F. plaintiff's attorney,
(or agent.)

To Mr. *G. H.* defendant's attorney, (&c.)

CHAP. XXXVII.

Of JUDGMENTS after VERDICT, or NONSUIT.

(§ 1.)
Judgment for
the plaintiff, on
a verdict in *assumpsit*, in a
town cause, in
K. B.

As yet of — term (the term of which issue was joined), in the — year of the reign of king *George* the third. Witness *Edward* Lord *Ellenborough*.

Law & Markham.

— to wit. *A. B.* puts in his place *E. F.* his attorney, against *C. D.* in a plea of trespass on the case upon promises.

— to wit. The said *C. D.* puts in his place *G. H.* his attorney, at the suit of the said *A. B.* in the plea aforesaid.

— to wit. Be it remembered, that on — next after — in this same term, before our lord the king at *Westminster*, comes *A. B.* by *E. F.* his attorney, and brings into the court of our said lord the king before the king himself now here, his certain bill against *C. D.* being in the custody of the marshal of the marshalsea of our said lord the king before the king himself, of a plea of trespass on the case, &c. and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard Roe*; which said bill follows in these words, that is to say: — (to wit.) *A. B.* complains of *C. D.* being in the custody of the marshal of the marshalsea of our lord the now king before the king himself; for that whereas, &c. (here copy the declaration to the end, omitting the pledges, and proceed on a new line as follows:)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury, when, &c. and says that he did not undertake or promise, in manner and form as the said *A. B.* hath above thereof complained against him; and of this he the said *C. D.* puts himself upon the country, and the said
A. B.

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XXXVII.

A. B. doth the like: Therefore let a jury thereupon come before our said lord the king at *Westminster*, on — next after —, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. the same day is given to the parties aforesaid at the same place: Afterwards the process thereof is continued between the parties aforesaid, of the plea aforesaid, by the jury being respited between them, before our said lord the king at *Westminster*, until — next after —, unless the right honourable *Edward Lord Ellenborough*, his majesty's chief-justice assigned to hold pleas in the court of our said lord the king before the king himself, shall first come on — the — day of — at the *Guildhall* of the city of *London*, (or, at *Westminster-hall* in the county of *Middlesex*.) according to the form of the statute in such case made and provided, for default of the jurors, because none of them did appear: At which day, before our said lord the king at *Westminster* aforesaid, comes the said *A. B.* by his attorney aforesaid; and the said chief-justice, before whom the said issue was tried, hath sent hither his record had before him in these words, to wit: Afterwards, that is to say, on the day and at the place within contained, before the right honourable *Edward Lord Ellenborough* the chief-justice within mentioned, *Ewan Law* esquire being associated to the said chief-justice, according to the form of the statute in such case made and provided, come as well the within-named *A. B.* as the within-named *C. D.* by their respective attornies within-mentioned; and the jurors of the jury whereof mention is within made, being summoned, also come, who to speak the truth of the matters within contained being chosen tried and sworn, say upon their oath, that the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages of the said *A. B.* on occasion of the premises, besides his costs and charges by him about his suit in this behalf expended, to —*l.* and for those costs and charges to —*s.* Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said damages costs and charges, by the jurors aforesaid in form aforesaid assessed, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his

Judgment
signed, (&c.)

CHAP.
XXXVII.
Mercy.

his assent; which said damages costs and charges in the whole amount to —*l.* and the said *C. D.* in mercy, &c.

(§ 2.)
The like, in
C. P.

— (to wit.) *C. D.* was attached (or summoned) to answer *A. B.* &c. (here copy the issue, to the end of the award of the *venire facias*, and proceed on the same line as follows :) At which day, the jury between the parties aforesaid, of the plea aforesaid, was respited thereupon between them here, until — then next following, unless Sir *Vicary Gibbs* knight, his majesty's chief-justice of the bench here, assigned according to the form of the statute in that case made and provided, shall first come on the — day of — at *Westminster* in the county of *Middlesex*, in the great hall of pleas there, for default of the jurors, because none of them did appear: And now here at this day, comes the said *A. B.* by his attorney aforesaid; and the said chief-justice, before whom the said issue was tried, hath sent hither his record, had before him in these words, that is to say: Afterwards, &c. (copy *postea* to the end, and then add the judgment as follows :) Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said damages costs and charges, by the said jury in form aforesaid assessed, and also —*l.* for his said costs and charges, by the justices here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to —*l.* and the said *C. D.* in mercy, &c.

Judgment
signed, (&c.)

Mercy.

(§ 3.)
The like, in a
country cause,
with a continu-
ance after ver-
dict, by *curia*
advisari vult,
in K. B.

(As before, p. 380, 81. to the end of the issue, and award of *venire*, and then as follows :) Afterwards the process thereof is continued between the parties aforesaid, of the plea aforesaid, by the jury being respited between them, before our said lord the king at *Westminster*, until — next after —, unless his majesty's justices assigned to take the assizes in and for the county of — shall first come on — the — day of — at — in the said county, according to the form of the statute in such case made and provided, for default of the jurors, because none of them did appear: At which day, before our said lord the king at *Westminster* aforesaid, comes the said *A. B.* by his attorney aforesaid; and the said justices of our said lord the king, before whom the said issue was tried, have sent hither their record, had before them in these

these words, to wit: Afterwards, &c. (here copy the *postea*): And because the court of our said lord the king before the king himself now here, are not yet advised what judgment to give of and upon the premises, a day is therefore given to the parties aforesaid, before our said lord the king at *Westminster*, until — next after —, to hear the judgment of the said court thereupon; for that the court of our said lord the king before the king himself now here, are not yet advised thereof, &c. At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by his attorney aforesaid: and hereupon all and singular the premises being seen, and by the court of our said lord the king before the king himself now here fully understood, and mature deliberation being thereupon had, it is considered by the same court, that the said *A. B.* do recover against the said *C. D.* his said damages, &c. (as in the last but one.)

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XXXVII.

(As before, p. 382. to the end of the issue, and award of *venire facias*, and then as follows :) At which day, the jury ^(§ 4.) ^{The like, in} ^{C. P.} between the parties aforesaid, of the plea aforesaid, was respite thereupon between them here, until — then next following, unless his majesty's justices assigned to take the assizes in and for the county of — shall first come on, — the — day of — at — in the said county, according to the form of the statute in such case made and provided, for default of the jurors, because none of them did appear: And now here at this day, comes the said *A. B.* by his attorney aforesaid; and the said justices of assize, before whom the said issue was tried, have sent hither their record, had before them in these words, to wit: (here copy the *postea*.) And because the justices here are not yet advised what judgment to give of and upon the premises, a day is therefore given to the parties aforesaid here, until — to hear their judgment thereon; for that the said justices here are not yet advised thereof, &c. At which day come here, as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by his attorney aforesaid; and hereupon all and singular the premises being seen, and by the justices here fully understood, and mature deliberation being thereupon had, it is considered by the same justices here, that the said *A. B.* do recover against

CHAP. against the said *C. D.* his said damages, &c. (as in the last
XXXVII. but one.)

(§ 5.)
The like, on a
special verdict,
in *K. B.*

(As before, to the end of the *postea*, and then as follows :)
And because the court of our said lord the king before the
king himself now here, are not yet advised, &c. (as in the
last but one, to the words, "not yet advised thereof, &c.")
At which day, before our said lord the king at *Westminster*,
come as well the said *A. B.* as the said *C. D.* by their respec-
tive attornies aforesaid : And hereupon all and singular the
premises being seen, and by the court of our said lord the
king before the king himself now here fully understood, and
mature deliberation being thereupon had, it appears to the
said court here, that the said *C. D.* did undertake, (&c.) in
manner and form as the said *A. B.* hath above thereof com-
plained against him : Therefore it is considered, (&c.)

(§ 6.)
The like, where
the cause was
tried in the
city of *Chester*.

(After the issue, and award of *mittimus*, proceed as follows :)
Afterwards, to wit, on — next after — in — term in
the — year of the reign of our said lord the king, until
which day the process thereof is continued between the par-
ties aforesaid, of the plea aforesaid, before our said lord the
king at *Westminster*, comes the said *A. B.* by his attorney
aforesaid ; and the said chamberlain on that day remitted into
the said court of our said lord the king, before the king him-
self, at *Westminster* aforesaid, the record of the plaint afore-
said, together with every thing that had been done thereupon
before the said mayor, in pursuance of the writ of our said
lord the king to him in that behalf directed, in these words,
to wit : Afterwards, &c. (copy *postea*, and add judgment, as in
common cases.)

(§ 7.)
The like, where
one issue is
found for the
plaintiff, and
another for the
defendant.

(To the end of the *postea*, and then as follows :) Therefore it
is considered, that the said *A. B.* do recover against the said
C. D. his said damages costs and charges, by the jurors afore-
said in form aforesaid assessed, and also — *l.* for his said
costs and charges, by the court of our said lord the king now
here (or in *C. B.* by the justices here) adjudged of increase
to the said *A. B.* with his assets according to the form
of the statute in such case made and provided ; which said
damages costs and charges amount in the whole to — *l.*
and

and the said *C. D.* in mercy, &c. And the said *A. B.* is also in mercy, for his false claim against the said *C. D.* as to the premises whereof the said *C. D.* is acquitted by the said jury in form aforesaid; and let the said *C. D.* go thereof without day, &c.

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(After the *poena*, proceed as follows:) But because the jurors aforesaid have not assessed any damages on occasion of the not performing of the said last-mentioned promise and undertaking, the said *A. B.* saith that he will not further prosecute his suit in that behalf against the said *C. D.*: And hereupon the said *A. B.* prays the judgment of the court, of and upon the premises aforesaid: Therefore it is considered by the court here, that the said *A. B.* do recover against the said *C. D.* his said damages costs and charges, &c. (as before, p. 381, 2.) And as to the several promises and undertakings in the said declaration secondly and lastly above-mentioned, let the said *C. D.* be acquitted, and go thereof without day, &c.

(§ 8.)
The like, on a verdict for the plaintiff on one count, and for the defendant on another, with a *nolle prosequi* as to a third count, found for the plaintiff, on which no damages were assessed.

(Copy the issue, to the end of the award of the *venire facias*, and proceed as follows:) At which day, come here the parties aforesaid, by their attorneys aforesaid; and the sheriffs have not sent the writ of our said lord the king to them in that behalf directed, nor have they done any thing thereupon: And hereupon the said *A. B.* gives the justices here to understand and be informed, that after the last continuance of this cause, and before this day, to wit, on the — day of — in the — year of the reign of his present majesty, a certain order was made by the right honourable Sir *Vicary Gibbs* knight, lord chief-justice of his said majesty's court of the bench here, in certain actions then depending in the same court here, by and at the suit of the said *A. B.* on the said writing or policy of assurance in the said declaration mentioned, that is to say, a certain action wherein *E. F.* was defendant, and a certain other action wherein *G. H.* was defendant, and a certain other action wherein *I. K.* was defendant, and the said action wherein the said *A. B.* was defendant; whereby, upon hearing the evidence on both sides, and by the verdict of the jury, and the opinion of the three learned judges of the said court, the said actions were concluded in the actions brought against them respectively, by the fate

(§ 9.)
The like, on consolidation rule, after verdict against defendant in the principal cause, with continuances by *curia ad vult*, in C. P.

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of such verdict as should be found in the first-named action, that is to say, in the said action against the said *E. F.* to the satisfaction of the judge before whom the same should be tried, and upon the defendants undertaking to admit on the trial of the first-named action, his subscription to the policy in question, and the interest of the plaintiff, as averred in the declaration, the said chief-justice did order, that all proceedings in the three last-named actions should be stayed; the defendant in the first-named action consenting, in case a verdict should be found for the plaintiff, to the satisfaction of the judge before whom the same should be tried, that no writ of error should be brought for delay, nor any bill in equity filed, to be relieved against such verdict. And because the said first-named action against the said *E. F.* hath not yet been tried, a day is given to the parties aforesaid here, until — to hear the judgment of the said justices in the premises, for that the said justices here are not yet advised thereof, &c. At which day, come here the parties aforesaid, by their attorneys aforesaid; and hereupon the said *A. B.* gives the justices here to understand and be informed, that a verdict hath been found in the said first-named action, for him the said *A. B.* against the said *E. F.* And upon this the said *A. B.* freely here in court remits to the said *C. D.* all damages sustained by him the said *A. B.* on occasion of the not performing the several promises and undertakings in the — last counts of the said declaration mentioned; and he prays judgment, and his damages by him sustained, on occasion of the not performing of the said promise and undertaking in the said first count mentioned, to be adjudged to him, &c. And because the justices here are not yet advised what judgment to give of and upon the premises, a day is therefore given to the parties aforesaid here, until — to hear their judgment thereupon, for that the said justices here are not yet advised thereof, &c. At which day, come here the parties aforesaid, by their attorneys aforesaid; and hereupon all and singular the premises being seen, and by the justices here fully understood, and mature deliberation being thereupon had, and it being suggested and proved, and manifestly appearing to the said justices here, that a verdict has been found in the said first-named action, for the said *A. B.* against the said *E. F.* to the satisfaction of the judge before whom
the

the said first-named action was tried, and that the said *A. B.* hath sustained damages, on occasion of the not performing of the said promise and undertaking in the said first count mentioned, to the sum of —*l.* besides his costs and charges by him about his suit in this behalf expended; therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, to the said sum of —*l.* and also —*l.* for his said costs and charges, by the justices here adjudged to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to —*l.* and the said *C. D.* in mercy, &c. And let the said *C. D.* be acquitted of the damages, so remitted as aforesaid, &c.

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Judgment signed, (&c.)

Mercy.

(To the end of the *postea*, and then as follows :) And upon this the said *A. B.* gives the court here to understand and be informed, that after the last continuance of the plea aforesaid, and before this day, to wit, on — the said *E. F.* died, to wit, at —, and the said *C. D.* then and there survived him; which the said *C. D.* doth not deny, but admits the same to be true; therefore let all further proceedings in this cause against the said *E. F.* be stayed: Whereupon the said *A. B.* prays judgment against the said *C. D.* of and upon the premises: Therefore it is considered, (&c.)

(§ 10.)

Suggestion of the death of one of the defendants, after verdict, and before judgment.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* as executor (or administrator) as aforesaid, his damages aforesaid, by the said jury in form aforesaid assessed, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to —*l.* to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* as executor (or administrator) as aforesaid to be administered, if he hath so-much thereof in his hands to be administered; and if he hath not so-much thereof in his hands to be administered, then the sum of —*l.* parcel of the damages aforesaid, being for the costs and charges aforesaid, to be levied of the proper goods and chattels of the said *C. D.*: and the said *C. D.* in mercy, &c.

(§ 11.)

Judgment for the plaintiff, on a verdict in *assumpsit*, against an executor or administrator.

Mercy.

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XXXVII.
(§ 12.)
The like, in
debt.

Mercy.

Capiatur.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and his damages aforesaid to —*l.* by the said jury in form aforesaid assessed, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; and the said *C. D.* in mercy, &c. (Or, if the defendant has denied his deed, a *capiatur* should be entered, instead of a *misericordia*, thus: And let the said *C. D.* inasmuch as he has denied his deed, be taken, &c.

(§ 13.)
The like, and
assessment of
damages, on
stat. 8 & 9
W. III. c. 11.
§ 8.

Mercy.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and his damages aforesaid, on occasion of the detention thereof, to 1*s.* together with his costs and charges aforesaid to 40*s.* By the said jury in form aforesaid assessed, and also —*l.* for his said costs and charges, by the court of our said lord the king before the king himself now here adjudged of increase to the said *A. B.* and with his assent: It is also considered, by his majesty's court here, that the said *A. B.* have execution against the said *C. D.* of the damages aforesaid to —*l.* by the said jury in form aforesaid assessed, on occasion of the aforesaid breach of the said condition of the said writing obligatory, according to the form of the statute in such case made and provided: and the said *C. D.* in mercy, &c.

(§ 14.)
The like, a-
gainst an exe-
cutor or admi-
nistrator, where
the jury find
assets to the
amount of part
of the debt.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* executor (or administrator) as aforesaid, his said debt, and also his damages aforesaid, by the said jury in form aforesaid assessed, and likewise —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; to be levied, as to the sum of —*l.* parcel of the said debt, being the value of the said goods and chattels of the said *E. F.* so found by the said jury to be in the hands of the said *C. D.* to be administered, and also as to the said —*l.* for the damages costs and charges aforesaid, of the goods and chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* to be administered, if he hath so-much thereof in his hands to be administered; and if he hath not so-much thereof in his hands to be administered then

then the said —*l.* for the damages costs and charges aforesaid, to be levied of the proper goods and chattels of the said *C. D.* : and as to the residue of the said debt, to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered : and the said *Mercy. C. D.* in mercy, &c.

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XXXVII.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and his damages aforesaid to —*l.* by the said jury in form aforesaid assessed, and also — for his costs and charges aforesaid, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent ; to be levied of the lands and tenements which were of the said *E. F.* in fee-simple, at the time of his death, and which came to and are now in the hands of the said *C. D.* by hereditary descent from the said *E. F.* and the said *C. D.* in mercy, &c.

(§ 15.)
The like, against an heir.

Mercy.

Therefore it is considered, that the said *A. B.* who sues as aforesaid, do recover against the said *C. D.* for himself and our said lord the king, the said sum of —*l.* in the said — count of the said declaration mentioned, parcel of the said sum of —*l.* above demanded ; and that the said *A. B.* who sues as aforesaid have one moiety thereof to his own use, and that our said lord the king have the other moiety thereof to his own use, according to the form of the statute in such case made and provided : and the said *C. D.* in mercy, &c. *Mercy.* And let the said *A. B.* who sues as aforesaid be in mercy, for his false complaint against the said *C. D.* for the residue of the said sum of —*l.* whereof the said *C. D.* is acquitted ; and the said *C. D.* go thereof without day, &c.

(§ 16.)
The like, in debt *qui tam*, where part is found for the plaintiff, and part for the defendant.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the goods and chattels aforesaid, or the said —*l.* for the value of the same, if the said *A. B.* cannot have again the said goods and chattels and his said damages to —*s.* beyond the value aforesaid, by the said jury in form aforesaid assessed, and also — for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent ;

(§ 17.)
The like, in *detinue*.

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XXXVII.

sent; and the said *C. D.* in mercy, &c. And hereupon the sheriff is commanded, that he distrain the said *C. D.* by all his lands, (&c.) and that he answer for the issues, (&c.) so that he render to the said *A. B.* the goods and chattels aforesaid, or the said — *l.* for the value of the same: and in what manner, (&c.)

(§ 18.)
The like, where
part is found
for the plain-
tiff, and part
for the defen-
dant.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the goods and chattels, which by the jurors aforesaid are above found to be detained by the said *C. D.* from the said *A. B.* or the said — *l.* for the value of the same, if the said *A. B.* cannot have again those goods and chattels, and his said damages to — beyond the value aforesaid, by the jurors aforesaid in form aforesaid assessed, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to, the said *A. B.* and with his assent; and the said *C. D.* in mercy, &c. And the said *A. B.* is also in mercy, for his false claim of the residue of the said goods and chattels, whereof the said *C. D.* by the jurors aforesaid is above acquitted; and let the said *C. D.* go thereof without day, &c. And hereupon the sheriff is commanded, that he distrain, &c. (as in the last.)

Mercy.

(§ 19.)
Judgment for
the plaintiff, af-
ter verdict in
the Exchequer,
in a town
cause.

(Copy the issue and record, as before, p. 276, and 315. and proceed on the same line as follows:) At which day, come here the parties aforesaid, by their attornies aforesaid; and the aforesaid chief-baron, before whom, &c. sent here the tenor of this plea, together with the writ of *distringas* of the jurors aforesaid, with a panel of the names of the same jurors to the said writ annexed, and to the same tenor affixed; which said tenor is thus indorsed: (here copy the *postea*.) Therefore it is considered by the barons here, that the said *A. B.* do recover, &c. (in the common way).

Judgment
signed, (&c.)

(§ 20.)
The like, in a
country cause,
with contin-
uances by *vice-*
comes non nisi
breve, and *curia*
advocatus.

(Copy the issue and record, as before, p. 276, and 316. and proceed on the same line as follows:) At which day, come here the parties aforesaid, by their attornies aforesaid; and the aforesaid justices of assize, before whom, &c. sent here the tenor of this plea, together with the writ of *distringas* of the jurors aforesaid, with a panel of the names of the same jurors to the said writ annexed, and to the same tenor affixed; which
said

said tenor is thus indorsed : (here copy the *postea*.) And because the barons here will advise themselves of and upon the premises aforesaid, before they give their judgment therein, a day is given to the said parties here, until — (the first return of the next term), to hear their judgment thereupon, for that the said barons are not yet advised thereof, &c. At which day, come here the said parties, by their attornies aforesaid: Whereupon all and singular the premises, being seen, and fully understood by the barons here, and they having had mature deliberation thereof; it is considered by the barons here, that the said *A. B.* do recover, (&c.)

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*Curia ad assisari
vult.*

Pleas at *Lancaster*, of the session of assizes there holden, on — the — day of — in the — year of the reign of our sovereign lord *George* the third, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, before — knight, one of the justices of the said lord the king of his court of Common Pleas at *Westminster*, and — one of the justices of the said lord the king of his court of King's Bench at *Westminster*, justices of the said lord the king at *Lancaster*.

(§ 21.)
The like, in
assumpsit, in
the Common
Pleas at *Lan-*
caster.

Lancashire, (to wit.) *C. D.* late of — was attached to answer *A. B.* of a plea of trespass on the case, &c. (here copy the declaration and pleadings, to the end of the award of the *venire facias*, and proceed as follows :) At which day, to wit, on — the — day of — in the — year of the reign of the said lord the king here, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and the sheriff of the said county, that is to say, *E. F.* Esquire now returneth the said writ of *venire facias*, to him in form aforesaid directed, together with a panel of the names of the jurors to the same writ annexed, in all things served and executed; and the jurors thereupon impanelled, being demanded, come not: Therefore, by another writ of the said lord the king, the same sheriff of the county aforesaid is commanded, that he have the bodies, &c. before the justices of the said lord the king here, at *Lancaster* aforesaid, on — next to come, in this same session of assizes; the same day is given to the parties aforesaid, here, &c. At which day, to wit, the — day of — in the — year of the reign aforesaid, come here, as well the

CHAP.
XXXVII.

the said *A. B.* as the said *C. D.* by their attorneys aforesaid : And the sheriff, to wit, the said *E. F.* Esquire now returneth, before the same justices, the last-mentioned writ of the said lord the king, to him in form aforesaid directed, together with a panel of the names of the jurors to the same writ annexed, in all things served and executed; and the jurors, being thereupon demanded, likewise come, who to speak the truth concerning the premises above-mentioned, being elected tried and sworn, say upon their oath, that the said *C. D.* did undertake and promise, in manner and form as in the said declaration is within alledged; and they assess the damages of the said *A. B.* on occasion of the premises, besides his costs and charges by him about his suit in this behalf laid out, to —*l.* and for those costs and charges to 40*s.* : Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid to —*l.* by the jurors aforesaid in form aforesaid assessed, and also —*l.* for his said costs and charges, by the court here of increase adjudged to the said *A. B.* and with his assent; which said damages costs and charges amount in the whole to —*l.* : and the said *C. D.* in mercy, &c.

Judgment
signed, (&c.)

Mercy.

As yet of — term, (&c.)

(§ 22.)
Judgment for
defendant, on a
nonsuit, in
K. B.

(Entry of warrants of attorney, as before, p. 210, or 217. ; and after copying the issue, to the end of the award of the *venire facias*, proceed as follows :) Afterwards, the process thereof is continued between the parties aforesaid, of the plea aforesaid, by the jury being respited between them, &c. (as before, p. 381. in a town cause, or p. 382. in a country cause, to “ default of the jurors, because none of them did appear :”) And now here, at this day, comes the said *C. D.* by his attorney aforesaid; and the said chief justice, (or justices of assize,) before whom the said issue was tried, hath (or have) sent hither his (or their) record, had before him (or them) in these words, (to wit) : Afterwards, &c. (to the end of the *poslea*, and then as follows :) Therefore it is considered, that the said *A. B.* take nothing by his said bill (of writ), but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without

without day, &c. : And it is further considered by his majesty's court here, that the said *C. D.* do recover against the said *A. B.* —/ for his costs and charges by him laid out about his defence in this behalf, by the court of our said lord the king now here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided ; and that the said *C. D.* have execution thereof, &c.

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XXXVII.

(To the end of the *postea*, and then as follows :)

But because it is suggested and proved, and manifestly appears to the court (or in C. P. "to the justices," or in the Exchequer, "to the barons") here, that the cause of action aforesaid arose in the principality of *Wales*, and that the said *C. D.* was resident within the dominion of *Wales*, at the time of service of the writ of — served on him in this action ; therefore it is considered, that the said *A. B.* take nothing by his said writ, (or, by his bill aforesaid), against the said *C. D.* but that he be in mercy for his false claim ; and that the said *A. B.* do go thereof without day, &c. It is also considered, &c. (as in the last but one.)

(§ 23.)
The like, on
the *Welsh-judicature-act*.

(After the judgment of acquittal, and before the award of costs, proceed as follows :)

And because it is suggested and proved, and manifestly appears to the court (or in C. P. to the justices, or in the Exchequer, to the barons) here, that this action was brought against the said *C. D.* for certain supposed trespasses committed by him the said *C. D.* in pursuance of a certain act of parliament, made and passed in the forty third year of the reign of his present majesty king *George the third*, entitled "*An act for consolidating certain of the provisions contained in any act or acts relating to the duties under the management of the commissioners for the affairs of taxes, and for amending the same ;*" and of a certain other act of parliament, made and passed in the forty fifth year of the reign of his said present majesty, entitled "*An act to repeal certain parts of an act made in the forty third year of his present majesty, for granting a contribution on the profits arising from property, professions, trades and offices ; and to consolidate and render more effectual the provisions for collecting the said duties ;*" and that a writ of
latitat,

(§ 24.)
The like, for
treble costs, in
an action against a
commissioner, on
the property-tax acts.

CHAP. *latitat*, (or *capias*, or *quo minus*, &c.) was sued out for the com-
 XXXVII. mencement of the said action, within one calendar month
 next after the committing of the said supposed trespasses; and
 that no notice in writing was delivered, or left at the usual
 place of abode of the said *C. D.* by the attorney or agent for the
 said *A. B.* containing the cause or causes of action, and the
 name and place of abode of the said *A. B.* before the suing
 out of the said writ of *latitat*; therefore, according to the form
 of the statute in such case made and provided, it is further
 considered by the said court (or, by the said justices, or ba-
 rons) here, that the said *C. D.* do recover against the said
A. B. the sum of — *l.* for his treble costs of suit in this be-
 half, by the said court here (or in *C. P.* by the justices, or
 in the Exchequer, by the barons here) adjudged to the said
C. D. and with his assent; and that the said *C. D.* have exe-
 cution thereof, &c.

Judgment
signed, (&c.)

Execution.

(§ 25.)
The like, on
verdict, for de-
fendant.

The judgment on verdict for defendant is, with the dif-
 ference of the *postea*, the same as on a nonsuit, for which
vide ante, p. 392, 3.

(§ 26.)
The like, for a
surviving de-
fendant.

(As before, p. 392. to the words "none of them did appear,"
 and then as follows:)

At which day, before our said lord the king at *Westminster*,
 come as well the said *A. B.* by his attorney aforesaid, as the
 said *C. D.* by his attorney aforesaid; and the said *E. F.* comes
 not: And the said justices of assize, before whom, (&c.) have
 sent hither, their record, had before them in these words, to
 wit: Afterwards, &c. (here copy the *postea*). And upon this
 the said *C. D.* gives the court here to understand and be in-
 formed, that after the last continuance of the plea aforesaid,
 and before this day, to wit, on — the said *E. F.* died, to
 wit, at — and the said *C. D.* there survived him; which the
 said *A. B.* does not deny, but admits the same to be true;
 wherefore the said *C. D.* prays judgment of and upon the
 premises: Therefore it is considered, that the said *A. B.* take
 nothing by his bill (or writ) aforesaid, but that he and his
 pledges to prosecute be in mercy, &c.; and that all further
 proceedings as to the said *E. F.* be stayed, and the said *C. D.*
 do go thereof without day, &c. And it is further considered,
 &c. (as before, p. 392, 3.)

Judgment
signed, (&c.)

Therefore

Therefore it is considered by the court here, that the said *A. B.* take nothing by his said bill against the said *C. D.* and *E. F.* but that he and his pledges to prosecute be in mercy, &c.; and that the said *C. D.* and *E. F.* do go thereof without day, &c. And because it is suggested and proved, and manifestly appears to the court here, by the certificate of the said chief-justice, before whom the said issue was tried, that the said *C. D.* and *E. F.* acted as constables, in the execution of their duty, in committing the supposed trespasses and imprisonments, for which this action was brought against them; therefore, according to the form of the statute in such case made and provided, it is further considered by the said court here, that the said *E. F.* and *G. H.* do recover against the said *A. B.* — *l.* for their double costs of suit in this behalf, by the said court here adjudged to the said *C. D.* and *E. F.* and with their assent; and that the said *C. D.* and *E. F.* have execution thereof, &c. It is also considered by the said court here, that the said *A. B.* do recover against the said *G. H.* and *I. K.* his said damages costs and charges, by the jurors aforesaid in form aforesaid assessed, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to — *l.*: and the said *G. H.* and *I. K.* in mercy, &c.

CHAP.
XXXVII.
(§ 27.)

The like, in trespass and false imprisonment, against several defendants, where some of them, being constables, were acquitted on the general issue, with double costs; and damages were assessed against others, who let by default, in K. B.

Execution.

Mercy.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, by the jurors aforesaid in form aforesaid assessed: And because it is suggested and proved, and manifestly appears to the court here, that the said *C. D.* at the time of bringing this action, did live and reside in the said county of *Middlesex*, and was liable to be summoned to the county court of *Middlesex* aforesaid; it is further considered by the said court here, that the said *C. D.* do recover against the said *A. B.* the sum of — *l.* for his double costs of suit in this behalf, by the said court here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

(§ 28.)
The like, for double costs, on the court of conscience act for *Middlesex*.

Judgment signed, (&c.)

Execution.

(After

CHAP.
XXXVII.
(§ 29.)

The like, on a
verdict for
less than five
pounds, on
the court of
conscience act
for *Southwark*,
&c.

(After the *postea*, proceed as follows:)

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the said sum of —*l.* for his damages aforesaid, by the jurors aforesaid in form aforesaid assessed: And because it is suggested and proved, and manifestly appears to the court here, that the said *C. D.* at the time of bringing this action, was residing and inhabiting in the eastern half of the hundred of *Brixton*, to wit, in the parish of — in the county of *Surrey*, and was liable to be summoned to the court of requests for the town and borough of *Southwark*, and eastern half of the said hundred of *Brixton*, in the county of *Surrey* aforesaid; therefore, according to the form of the statute in such case made and provided, let the said *C. D.* be acquitted of the said sum of —*l.* (the nominal costs found by the jury,) for his said costs and charges aforesaid, and any further or other costs and charges which the said *A. B.* may have expended about his suit in this behalf, and go thereof without day, &c.

(§ 30.)

Suggestion on
stat. 45 Geo.
III. c. 46. § 7.
to intell. the
defendant to
costs, where
the plaintiff
recovers less
than the sum
for which the
defendant was
held to bail.

(After the *postea*, proceed as follows:)

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, in form aforesaid assessed: And upon this the said *C. D.* gives the court here to understand and be informed, that this action was brought against him the said *C. D.* by the said *A. B.* after the first day of *June*, in the year of our Lord 1803; and that he the said *C. D.* was arrested and held to special bail therein to the amount of the sum of —*l.* which the said *A. B.* doth not deny, but admits the same to be true: And because it has been also suggested, and made appear to the satisfaction of the court here, upon motion made in court for that purpose, and upon hearing the said parties by affidavit, according to the form of the statute in such case lately made and provided, that the said *A. B.* the plaintiff in the said action, had not any reasonable or probable cause for causing the said *C. D.* to be arrested and held to special bail in such amount as aforesaid; therefore, by a rule or order of the same court here in that behalf made, according to the form of the statute aforesaid, it is ordered and directed, that the said *C. D.* be allowed his costs of this action, to be taxed by the master; and which

costs

costs were afterwards duly taxed by him, at the sum of ——.l. And thereupon it is further considered by the said court here, that the said *C. D.* after deducting the said sum of ——.l. so recovered by the said *A. B.* in this action as aforesaid, from the amount of his the said *C. D.*'s said costs so taxed as aforesaid, have his execution against the said *A. B.* for the residue of such costs, according to the form of the statute aforesaid, &c.

In this case, the sum recovered was less than the amount of the defendant's costs: Where it is more, there is no occasion for the latter part of the above entry.

A Memorial to be registered, pursuant to the statute, (*Sc.*)

(§ 31.)
Memorial of a
judgment.

Of a judgment in his majesty's court of King's Bench, (Common Pleas, or Exchequer,) of — term, in the — year of the reign of king *George* the third, between *A. B.* plaintiff and *C. D.* defendant, in a plea of, (*Sc.*) Roll. —.

I do hereby certify, that judgment was signed in the above cause, the — day of — 18—.

(§ 32.)
Certificate of
the master
thereon.

Robert Forster,

E. F. of — maketh oath and saith, that he was present and did see *Robert Forster* Esquire, secondary of the court of King's Bench, sign the certificate of the judgment in the memorial above-mentioned.

(§ 33.)
Affidavit of
signature.

Sworn, (*Sc.*)

E. F.

CHAP. XXXVIII.

Of Costs.

(§ 1.)
Affidavit for
leave to enter
suggestion for
costs, on the
court of con-
science act for
London.

In the King's Bench,
(Common Pleas, or
Exchequer of Pleas.)

A. B. plaintiff,
and
C. D. defendant.

C. D. of — maketh oath and saith, that he this deponent and the above-named plaintiff at the time of the commencement of this suit were, and ever since have been, and still are respectively inhabiting and resiant in the city of *London*; and that he this deponent hath been for and during all that time, and still is liable to be summoned to the court of requests held at the *Guildhall* of the said city; and that the said plaintiff, on the trial of the said cause, obtained a verdict for — and no more.

Sworn, (&c.)

C. D.

(§ 2.)
Rule nisi, for
entering sug-
gestion thereon,
in K. B.

— on (or next after) — in the — year of king
George the third.

B. } On reading the affidavit of *C. D.* the defendant, it is
v. } ordered, that the plaintiff, upon notice of this rule to be
D. } given to his attorney or agent, shall shew cause, why
the said defendant should not be at liberty to enter a
suggestion on the roll, that at the commencement of this
action, and long before, he kept a house in — within the
city of *London*, and was liable to be warned or summoned to
appear before the commissioners of the court of requests for
the said city; and that this action was commenced in this
court, for a debt not exceeding 5*l.* and which was recoverable
in the said court of requests; and also, why the taxation
of any costs to the plaintiff should not be stayed: and in the
mean-time, let such taxation be stayed. Upon the motion of
Mr. —

By the Court.

In

In the Common Pleas.

— term, (&c.) CHAP.

— the — day of —, XXXVIII.

B. } Upon reading a rule made in this cause, on — the (§ 3.)
v. } — day of this present term, the affidavit of *A. B.* Rule absolute,
D. } and on hearing counsel on both sides; it is ordered, in C. P.
 that the defendant be at liberty to enter a suggestion on the
 record, setting forth, among other things, that at the time of
 the commencement of this action, he the said defendant sought
 his livelihood in the city of *London*, and was subject to the
 jurisdiction of the court of requests of the said city; and that
 the plaintiff's several causes of action arose within the juris-
 diction of the court of requests, holden at the *Guildhall* of the
 said city; and that the debt recovered in the said action did
 not amount to 5*l.*: And it is further ordered, that the said
 plaintiff do and shall lose his costs of this suit, pursuant to the
 statute of the 39th & 40th years of his present majesty's reign,
 in that case made and provided.

• By the Court.

In the King's Bench, (&c.)

A. B. plaintiff, (§ 4.)

and

C. D. defendant. Affidavit for
leave to enter
suggestion for
costs, on the
court of con-
science act for
Southwark, &c.

C. D. of — maketh oath and saith, that he this deponent,
 at the time of the commencement of this suit was, and ever
 since has been, and still is, residing and inhabiting in the east-
 ern half of the hundred of *Brixton*, to wit, in the parish of
 — in the county of *Surrey* aforesaid; and that he this de-
 ponent hath been for and during all that time, and still is
 liable to be summoned to the court of requests for the town
 and borough of *Southwark*, and eastern half of the said hun-
 dred of *Brixton*, in the county of *Surrey* aforesaid; and that
 the said plaintiff, on the trial of the said cause, obtained a
 verdict for —*l.* and no more: And lastly, this deponent
 saith, that the said debt was recoverable in the said court of
 requests.

Sworn, (&c.)

C. D.

B. } It is ordered, that the attorney for the — shall give (§ 5.)
v. } notice to Mr. — attorney for the — of the time of Rule to be pre-
sent at taxing
D. } taxing costs between the parties, that he may be present costs, in K. B.
 if he thinks fit.

It

CHAP.
XXXVIII.
(§ 6.)
The like, in
C. P.

B. } It is ordered, that — gentleman shall have notice
v. } of the time of taxation of the costs in this cause, so
D. } that he may be present, if he shall think fit.

By the Court

At the — instance.

(§ 7.)
Affidavit of in-
creased costs.

In the King's Bench, (&c.)

A. B. plaintiff,
and
C. D. defendant.

E. F. of — gentleman, attorney for the above-named plaintiff, and *A. B.* of — the said plaintiff, severally make oath and say; and first this deponent *E. F.* for himself saith, that notice of trial was given in this cause, for the last assizes to be holden at — in the county of —, and that the same was tried before a special jury of the said county; and that he did cause — *subpœnas* to be issued out, on the part of the said plaintiff; and that *I. K.* of — *L. M.* of — (&c.) were all of them severally *subpœnaed* on the part of the plaintiff. And this deponent further saith, that all the said witnesses were material and necessary for the said plaintiff; and that their places of residence are distant from this deponent's residence — miles; and that the said *I. K. L. M.* (&c.) were paid with their *subpœnas*, the sum of one shilling each. And this deponent further saith, that the usual place of his abode is distant from — aforesaid, — miles; and that he this deponent was necessarily absent from his place of abode, in going to, staying at, and returning from the assizes, — days; and that he did pay for conveying himself to and from — aforesaid, and for his expences on the road, the sum of —*l.* And this deponent further saith, that the usual place of abode of the said *I. K.* is distant from — aforesaid, — miles; and that the usual place of abode of the said *L. M.* is distant from — aforesaid, — miles; (and so of the rest :) and that the said *I. K. L. M.* (&c.) were necessarily absent from their respective places of abode, in going to, staying at, and returning from the said assizes, — days. And this deponent further saith, that the said *L. M.* was very old and infirm; and that he was obliged to hire a post-chaise to convey him from his place of abode to the said assizes, and back again, he the said *L. M.* not being able to travel in any other way; and that he did pay for the same, the sum of —*l.* :
and

and that he did also pay to the said *I. K. L. M.* (&c.) for their loss of time, trouble and expences, the sum of — *l.*: CHAP. XXXVIII.
 And this deponent further saith, that his brief consisted of — sheets of paper; and that he did pay to Mr. — with his brief, and his clerk, — *l.* and to Mr. — with his brief, and his clerk, — *l.* (&c.) and also the following court fees; to the marshal, for entering the cause, —, to the jury, tipstaff, and bailiff, —, to the marshal and crier —, and to the associate —. And this deponent *A. B.* for himself saith, that he did pay for the expences of himself and witnesses, at the said assizes, the sum of — *l.*

* *E. F.*
Sworn, (&c.) *A. B.*

In the King's Bench, (&c.)

A. B. plaintiff,
 and
C. D. defendant.

(§ 8.)
 Affidavit of demand and refusal of costs, when payable to the attorney.

G. H. of — and *C. D.* of — severally make oath and say; and first, this deponent *G. H.* for himself saith, that he did, on — the — day of — last, personally serve the above named plaintiff with a true copy of the rule, and the Master's (or Prothonotary's) *allocatur* thereon, hereunto annexed, and at the same time shewed him the said original rule and *allocatur*; and that this deponent then demanded of him the costs allowed by the Master, (in the King's Bench, or Exchequer; or in the Common Pleas, "by the Prothonotary,") on the said rule; but that the said plaintiff did not then, or at any time since, pay the same to this deponent: And this deponent *C. D.* for himself saith, that he hath not received the said costs, or any part thereof, but the same now remain due and unpaid to this deponent.

G. H.
Sworn, (&c.) *C. D.*

In the Common Pleas.

— term, (&c.)

(§ 9.)
 Rule for attachment, for non-payment of costs, in C. P.

B. } Upon reading a rule made in this cause, on — the
a. } — day of — in this present — term, the *allocatur* of Mr. Prothonotary — made thereon, and the affidavit of *A. B.* it is ordered, that an attachment of contempt be issued forth against the defendant above-named, for non-payment

CHAP. payment of the sum of —*l.* pursuant to the said rule, and
XXXVIII. of the *allocatur* so made thereon as aforesaid.

By the Court.

(§ 10.)
Attachment for
non-payment
of costs, in
C. P.

George the Third, (&c.) To the sheriff of — greeting:
Attach *C. D.* so that you may have his body before our
justices at *Westminster*, on — to answer us, of and con-
cerning such things as on our behalf shall be then and there
objected against him; and have there then this writ. Wit-
ness Sir *Vicary Gibbs* knight, (&c.)

A. B. against *C. D.* For non-payment of —*l.* costs, taxed
by Mr. Prothonotary —, pursuant to a rule of court, dated
the — day of — 18—.

(§ 11.)
Letter of at-
torney, to de-
mand costs, in
the Exchequer.

Know all men by these presents, That I *C. D.* of — for
divers good causes and considerations me hereunto moving,
have made, ordained, authorized, constituted and appointed,
and by these presents do make, ordain, authorize, constitute
and appoint *C. H.* of — gentleman, my true and lawful at-
torney, for me and in my name, and to my use, to ask, de-
mand and receive, of and from *A. B.* of —, the sum of
—*l.* being costs allowed to me, by virtue of and under an
order of his majesty's court of Exchequer at *Westminster*,
bearing date the — day of — last past, and *allocatur* of
the proper officer taxing the same, thereon made and given;
and on payment thereof, acquittances, or other sufficient dis-
charges for the same, for me and in my name, to make, seal
and deliver, and to do all other lawful acts and things what-
soever, concerning the premises, as fully in every respect, as
I myself might or could do, if I were personally present;
hereby ratifying, confirming and allowing, all and whatso-
ever my said attorney shall in my name lawfully do, in and
about the said premises, by virtue of these presents. In
witness whereof, I have hereunto set my hand and seal, this
— day of — in the year of our Lord 18—.

Sealed and delivered, being first duly
stamped, in the presence of

C. D.

I. K.

In the Exchequer of Pleas.

A. B. plaintiff,

and

C. D. defendant.

CHAP.
XXXVIII.

(§ 12.)

Affidavit of demand of costs thereon, refusal of payment, and due execution of letter of attorney.

G. H. of — and *I. K.* of — severally make oath and say; and first the said *G. H.* for himself saith, that he this deponent, on the — day of — instant (or last), personally served *A. B.* the above-named plaintiff, with a true copy of the rule, and master's *allocatur* thereon given, for costs taxed on the said rule, and letter of attorney hereunto annexed, and at the same time shewed him the said original rule and *allocatur*, and demanded of him the costs allowed by the master on the said rule, and also shewed to him the said letter of attorney from the said defendant, authorizing this deponent to receive the same; but the said *A. B.* refused (or declined) to pay the same, and the same yet remains unpaid. And the said *I. K.* for himself saith, that he was present, and did see the said defendant *C. D.* duly execute the letter of attorney above-mentioned to be hereunto annexed; and that the name *C. D.* appearing to be the party executing the same, and the name *I. K.* subscribed as a witness to the due execution of the said letter of attorney, are respectively of the proper hand-writing of the said *C. D.* and this deponent.

Sworn, (&c.)

George the Third, (&c.) To *A. B.* our debtor, greeting: We command and strictly enjoin you, that all excuses apart, immediately after the receipt of this our writ, you pay, or cause to be paid, to *C. D.* or the bearer thereof, the sum of — *l.* of lawful money of Great Britain, allowed to the said *C. D.* by our court of Exchequer at Westminster, for his costs and charges, by reason of the appearance of the said *C. D.* lately entered in our said court, on our writ of *subpoena*, prosecuted against him in our said court, on behalf of you the said *A. B.* and returnable in the Office of Pleas of our said court, at a day now past; whereupon you the said *A. B.* have exhibited no bill in our said court, against the said *C. D.* (or, if for not proceeding to trial, “for his costs and charges by reason of his attendance at the last — assizes, held for the county of —, because you the said *A. B.* did not proceed to trial at the said assizes, pursuant to notice by you given, in a certain cause then depending in our same court, between you the

(§ 13.)

Subpoena for costs, on non-pros, or for not proceeding to trial, in the Exchequer.

CHAP. said *A. B.* plaintiff, and the said *C. D.* defendant, in a plea
XXXVIII. of trespass on the case," or as the plea is) : And this you are
 in no wise to omit, under the penalty of 100*l.* which we shall
 cause to be levied to our use, upon your goods and chattels,
 lands and tenements, if you neglect, this our present com-
 mand. Witness Sir *Alexander Thomson* knight, (&c.)

(§ 14.)
 Attachment
 for non-pay-
 ment of costs,
 in the Exche-
 quer.

George the Third, (&c.) To the sheriff of — greeting :
 We command you, that you omit not by reason of any liberty
 of your county, but that you enter the same, and attach *A. B.*
 by his body, wheresoever he shall be found in your bailiwick,
 and him safely and securely keep, so that you may have him,
 before the barons of our Exchequer, at *Westminster*, on —
 next coming, to answer us of divers trespasses, contempts
 and offences, by him lately done and committed ; and further
 to do and receive what our said court shall then and there
 think fit to order concerning him in this behalf ; and have
 there this writ. Witness Sir *Alexander Thomson* knight,
 (&c.)

Rose.

By order of court, at the instance of *C. D.* for non-payment
 of — *l.* costs.

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Of EXECUTION.

GEORGE the Third, (&c.) To the sheriff of — greeting : (§ 1.)
Fieri facias in
assumpsit, in
K. B.
We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l.* which *A. B.* lately in our court before us at *Westminster*, recovered against him, for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended ; whereof the said *C. D.* is convicted, as appears to us of record : And have that money before us at *Westminster*, on — next after — (by *bill* ; or, by *original*, “ on — wheresoever we shall then be in *England*,”) to be rendered to the said *A. B.* for his damages aforesaid ; and have there then (or, by *original*, “ have there”) this writ. Witness *Edward* Lord *Ellenborough*, at *Westminster*, the — day of — in the — year of our reign.

George the Third, (&c.) To the sheriff of — greeting : (§ 2.)
The like, in
C. P.
We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made (a) — *l.* which
• *A. B.*

(a) In some of the more modern books of practice, as well as in the *Bank* forms published by the law stationers, the sheriff, in the *Common Pleas*, is commanded to cause the debt or damages to be levied, and in the *Exchequer* to levy the same, or cause them to be levied, of the defendant's goods and chattels. *Imp. C. P.* 499. *Edm. Exch.* 165. 168. but there seems to be no ground for a distinction in this respect.

At common law, where a subject sued

execution upon a judgment for debt or damages, he could not have the body of the defendant, or his land, in execution, unless it were in special cases ; but could have execution only of his goods and chattels, and of his corn and other present profit of his land : for which purpose the law gave him two several writs, to be sued within the year, one a *levari facias*, whereby the sheriff was commanded, that of the lands and chattels of the defendant, he should cause to be levied,

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A. B. lately in our court before our justices at *Westminster*, recovered against him, for his damages which he had sustained, on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* at — (the *venue*,) in your county; whereof the said *C. D.* is convicted: And have that money before our justices at *Westminster*, on —, to be rendered to the said *A. B.* for his damages aforesaid; and have there this writ. Witness Sir *Vicary Gibbs* knight, at *Westminster*, the — day of — in the — year of our reign.

(§ 3.)
The like, in
the Exchequer.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l.* which *A. B.* our debtor, lately in our court before the barons of our Exchequer at *Westminster*, recovered against him, for his damages which he had sustained, on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.*; whereof the said *C. D.* is convicted, as by inspecting the rolls

vied, &c. the other, called a *feri facias*, which was only of the goods and chattels. 2 Inst. 394, 5. And it is remarkable, that the statute of Westm. 2. (13 Edw. I.) c. 18. which gave the *elegit*, speaks of a writ to be sued out by the plaintiff, *quod vice vires fieri faciet de terris et catallis debitoris*, &c.; under which words, Lord Coke, in commenting on that statute, observes, the writ of *levari facias* is also included.

The writ of *levari facias* commonly issues out of the court of Exchequer; and is chiefly used for levying the issues and profits of lands returned by the sheriff on a special *capias utlagatum*, or for arrears of taxes; and under this writ, the cattle of a stranger, *levant and couchant* upon the land, may be taken and sold: 1 Ld. Raym. 305. 1 Salk. 395. 408. but upon a *feri facias*, the sheriff can only take the goods and chattels of the defendant; though it has

been held, that corn growing, or other produce of the land, may be taken under it. 1 Salk. 368. Gilb. Exec. 19.

There is indeed a writ of *levari facias de bonis ecclesiasticis*, and against a clerk on a statute-merchant, under which the tithes or other profits of the living may be taken in execution; and also a *levari facias* for executing the judgment of a county court: but this latter writ ought to be *de bonis et catallis* only, and not *de terris et catallis*; 2 Ld. Raym. 1413. and the goods cannot be sold under it, without a special custom. *Id.*

For these reasons, the sheriff is commanded, in the following forms, to cause the debt or damages to be made of the goods and chattels of the defendant, in the Common Pleas and Exchequer, as well as in the King's Bench; which is also warranted by the earlier precedents. See *Thes. Brev. Off. Brev. & Lil. Ent. tit. Fieri facias.*

rolls of our said Exchequer, appears to us: And have that money before the barons of our said Exchequer at *Westminster*, on — next coming, to be then and there paid to the said *A. B.* or his attorney in this behalf; and have there (*b*) this writ. Witness Sir *Alexander Thomson* knight, at *Westminster*, the — day of — in the — year of our reign.

E. F. Solicitor.

G. H.

I.

Rose. (c)

George

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(5) It is observable, on comparing the different writs in the Exchequer, that this part of them is not always uniform: In the writs of *venire facias ad respondendum*, *distringas*, and *quo minus*, and also in the *habeas corpus cum causa*, &c. the sheriff is commanded to have there this writ, which is also the form used in writs of execution; but in the *subpoena*, and process of contempt thereon, and also in the jury-process, he is commanded to have there then this writ.

(c) By comparing the foregoing writs, it will be seen, that they differ in the following particulars: 1. That in the Exchequer, the writ is always a *non omitas*, but it is not so in the other courts, unless it is to be executed in a particular liberty: 2. That in the Exchequer, the plaintiff, when first named, is called "our debtor," which is not the case in the other courts: 3. With regard to the style of the court, in which the judgment was recovered; it is stated, in the King's Bench, to be "in our court before us;" in the Common Pleas, "in our court before our justices at *Westminster*;" and in the Exchequer, "in our court before the barons of our Exchequer at *Westminster*:" 4. As to the subject matter of the recovery; in the King's Bench, the costs of the action are particularly mentioned, as well as the damages; but in the Common Pleas and Exchequer, the costs are never mentioned, being considered as parcel of the damages: 5. In referring to the judgment, after the words "whereof the said *C. D.* is con-

victed," there is no *prouit paret per recordum* in the Common Pleas; but in the King's Bench, these words are added, "as appears to us of record;" and in the Exchequer, "as by inspecting the rolls of our said Exchequer, appears to us:" 6. As to the return of the writ; in the King's Bench, it is made returnable "before us at *Westminster*," on a day certain by bill, or by original, on a general return-day, "wheresoever we shall then be in *England*;" in the Common Pleas, it is made returnable "before our justices at *Westminster*," on a general return-day, except in actions by bill, when it is made returnable on a day certain, as in the King's Bench; and in the Exchequer, it is commonly made returnable before the barons of our Exchequer at *Westminster*, on a general return-day, as in proceedings by original; though it may be returnable on a day certain, as on the — day of — instant, (or next coming): 7. That in the King's Bench or Common Pleas, the sheriff is commanded to have the money in court, at the return of the writ, to be rendered to the plaintiff, for his debt or damages, (&c.); but in the Exchequer, he is required to have it, to be then and there paid to the plaintiff, or his attorney in this behalf: 8. That in actions by bill, in the King's Bench or Common Pleas, the sheriff is commanded to have there then this writ; but by original, in K. B. or C. P. or in the Exchequer, he is commanded to have there this writ: the reason of this latter difference

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(§ 4.)

The like, by
and against
surviving part-
ners.

George the Third, (&c.) To the sheriff of — greeting :
We command you, (*d*) that of the goods and chattels of *G. H.* and *I. K.* in your bailiwick, you cause to be made — *l.* which *A. B. C. D.* and *E. F.* in the life-time of the said *E. F.* now deceased, and whom the said *A. B.* and *C. D.* have survived, lately in our court before us (or in C. P. “before our justices,” or in the Exchequer, “before the barons of our Exchequer”) at *Westminster*, recovered against them the said *G. H.* and *I. K.* and one *L. M.* (the deceased partner,) in his life-time now deceased, and whom the said *G. H.* and *I. K.* have survived, for their damages, &c. (stating the promises to have been made by and to all the partners, and that they were all of them convicted) : And have that money, &c. (as before, p. 405. in K. B. p. 406. in the Common Pleas, or p. 407. in the Exchequer ; stating that the damages are to be rendered, or paid, to the said *G. H.* and *I. K.* &c.)

(§ 5.)

The like, for
an executor or
administrator,
on a judgment
by the estator
or intestate

George the Third, (&c.) To the sheriff of — greeting :
We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l.* which *A. B.* in his life-time lately in our court before us (or in C. P. “before our justices,” or in the Exchequer, “before the barons of our Exchequer”) at *Westminster*, recovered against him, for his damages, (&c.) whereof, &c. (as before, p. 405. in K. B. or p. 406. in the Common Pleas or Exchequer :) And whereupon it is considered in our said court before us, (or “before our said justices, or barons,”) that *E. F.* executor of the last will and testament of the said *A. B.* deceased, (or “administrator of all and singular the goods, chattels and credits,

rence seems to be, that in actions by *original*, or in the Exchequer, the sheriff is not expected to return the writ into court till the third day, or next day but one after it is returnable, from whence this day is called the day of *retorno brevis* : 9. In the King's Bench and Common Pleas, the writ is tested in the name of the chief-justice ; and in the Exchequer, in the name of the chief-baron : and lastly, that in the King's Bench, the writ, though sealed, is not signed ; but in the Common Pleas, it is signed by the Prothonotaries, and in

the Exchequer, by the Clerk of the Pleas.

The above differences will also be found to apply, as a great measure, to the writs of *habere facias*, and other writs of execution in the present chapter.

(*d*) In the Exchequer, it should be recollected, that this writ always contains a clause of *non solvitur* ; but for the sake of brevity, and to avoid unnecessary repetition, that clause is not inserted in the following forms ; nor, for the same reason, is the plaintiff called therein “ our debtor.”

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deits, which were of the said *A. B.* deceased at the time of his death, who died intestate,") have execution against the said *C. D.* for the damages aforesaid, according to the force, form and effect of the said recovery, by the default of the said *C. D.* (adding in K. B. "as also appears to us of record;" or in the Exchequer, "as by inspecting the rolls of our said Exchequer, also appears to us:") And have that money, (&c.) to be rendered to the said *E. F.* executor (or "administrator") as aforesaid, for the damages aforesaid, (or in the Exchequer, "to be then and there paid," &c.) and have there then (or by *original*, in K. B. or C. P. or in the Exchequer, "have there") this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of — greeting:
We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l.* which *A. B.* executor of the last will and testament of *E. F.* deceased, (or "administrator of all and singular the goods, chattels and credits, which were of *E. F.* deceased at the time of his death, who died intestate,") lately in our court before us (or in C. P. "before our justices," or in the Exchequer, "before the barons of our Exchequer") at *Westminster*, recovered against him, (&c.) whereof, (&c.) And have that money, &c. (as before, p. 405. in K. B. p. 406. in the Common Pleas, or p. 407. in the Exchequer.)

(§ 6.)
The like, on a judgment by an executor or administrator.

George the Third, (&c.) To the sheriff of — greeting:
We command you, that of the goods and chattels which were of *C. D.* deceased at the time of his death, in the hands of *E. F.* executor, &c. (or, administrator, &c.) to be administered, in your bailiwick, you cause to be made — *l.* which *A. B.* lately in our court before us (or in C. P. "before our justices," or in the Exchequer, "before the barons of our Exchequer") at *Westminster*, recovered against the said *C. D.* for his damages, (&c.) whereof, (&c.): And whereupon it is considered in our said court before us, or in C. P. "before our said justices," (or in the Exchequer, "before the barons of our said Exchequer") at *Westminster* aforesaid, that the said *A. B.* have his execution against the said *E. F.* as executor (or, administrator) as aforesaid, of the damages aforesaid, of the goods and chattels which were of the said *C. D.* at the

(§ 7.)
The like, against an executor or administrator, on a judgment against the testator or intestate.

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 XXXIX. executor (or, administrator) as aforesaid to be administered,
 according to the form and effect of the said recovery, (adding
 in K. B. "as also appears to us of record;" or in the Exche-
 quer, "as by inspecting the rolls of our said Exchequer, also
 appears to us"): And have that money, &c. (as before, p. 405.
 in K. B. p. 406. in the Common Pleas, or p. 407. in the Ex-
 chequer.)

(§ 8.) *George the Third, (&c.) To the sheriff of — greeting :*
 The like, on a judgment a We command you, that of the goods and chattels in your
 gainst an exe- bailiwick, which were of *E. F.* deceased at the time of his
 cutor or admi- death, in the hands of *C. D.* executor, &c. (or, administrator,
 nistrator, *de* &c.) to be administered, you cause to be made — *l.* which
bonis testatoris, *A. B.* lately in our court before us, (or in C. P. "before our
 &c. justices," or in the Exchequer, "before the barons of our Ex-
 chequer") at *Westminster*, recovered against the said *C. D.* as
 executor (or, administrator) as aforesaid, for his damages which
 he had sustained, as well on occasion of the not performing
 certain promises and undertakings, made by the said *E. F.*
 in his life-time to the said *A. B.* as for his costs and charges
 by him about his suit in that behalf expended, (or, in the
 Common Pleas or Exchequer, "for his damages," &c. omit-
 ting the costs,) whereof, (&c.) if the said *C. D.* hath so-much
 thereof in his hands to be administered; and if he hath not
 so-much thereof in his hands to be administered, then that
 you cause to be made — *l.* parcel of the damages aforesaid,
 being for the costs and charges aforesaid, of the proper goods
 and chattels of the said *C. D.* in your bailiwick: And have
 that money, &c. (as before, p. 405, in K. B. p. 406. in the
 Common Pleas, or p. 407. in the Exchequer.)

(§ 9.) *George the Third, (&c.) To the sheriff of — greeting :*
Fieri facias in We command you, that of the goods and chattels of *C. D.* in
 debt, in K. B. your bailiwick, you cause to be made a certain debt of — *l.*
 which *A. B.* lately in our court before us at *Westminster*,
 recovered against him, and also — *l.* which in our same court
 before us at *Westminster* aforesaid, were adjudged to the said
A. B. for his damages which he had sustained, as well on oc-
 casion of the detention of the said debt, as for his costs and
 charges by him about his suit in that behalf expended;
 whereof

whereof the said *C. D.* is convicted, as appears to us of record : And have that money before us at *Westminster*, on — next after —, (by *bill* ; or by *original*, “ on — wheresoever we shall then be in *England*,”) to be rendered to the said *A. B.* for his debt and damages aforesaid ; and have there then (or by *original*, “ have there”) this writ. Witness *Edward Lord Ellenborough*, (&c.)

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George the Third, (&c.) To the sheriff of — greeting : We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made a certain debt of —*l.* which *A. B.* lately in our court before our justices at *Westminster*, recovered against him ; and also —*l.* which in our same court were awarded to the said *A. B.* for his damages which he had sustained, on occasion of the detention of the said debt ; whereof the said *C. D.* is convicted : And have that money before our justices at *Westminster*, on — to be rendered to the said *A. B.* for his debt and damages aforesaid ; and have there this writ. Witness *Sir Vicary Gibbs* knight, (&c.)

(§ 10.)
The like, in
C. P.

George the Third, (&c.) To the sheriff of — greeting : We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and of the goods and chattels of *C. D.* in your bailiwick, you cause to be made, as well a certain debt of —*l.* which *A. B.* our debtor, lately in our court before the barons of our Exchequer at *Westminster*, recovered against him, as also —*l.* which were adjudged to the said *A. B.* for his damages which he had sustained, on occasion of the detention of the said debt ; whereof the said *C. D.* is convicted, as by inspecting the rolls of our said Exchequer appears to us : And have that money before the barons of our said Exchequer, on — next coming, to be then and there paid to the said *A. B.* or his attorney in this behalf ; and have there this writ. Witness *Sir Alexander Thomson* knight, (&c.)

(§ 11.)
The like, in the
Exchequer.

George the Third, (&c.) To the sheriff of — greeting : We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made a certain debt of —*l.* which *A. B.* who sued as well for us as for himself in that behalf,

(§ 12.)
The like, in
debt *quæ tam*, in
K. B. or C. P.

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behalf, lately in our court before us (or in C. P. "before our justices") at *Westminster*, recovered against the said *C. D.* that is to say, one moiety thereof to the said *A. B.* who sued as aforesaid, to his own proper use, and the other moiety thereof to our own proper use; (and if the judgment was for costs, add "and also —*l.* which in our said court before us, (or in C. P. "in our same court,") were adjudged to the said *A. B.* who sued as aforesaid, and with his assent, according to the form of the statute in such case made and provided, for his costs and charges by him about his suit in that behalf expended;") whereof, (&c.) And have that money, &c. (as before, p. 405. in K. B. or p. 406. in C. P.) one moiety thereof to be rendered to us, and the other moiety thereof to the said *A. B.* who sued as aforesaid; (or if there are costs, "one moiety of the said debt of —*l.* to be rendered to us, and the residue thereof, as well as the said sum of —*l.* for the costs and charges aforesaid, to the said *A. B.* who sued as aforesaid;") and have there then (or by *original*, in K. B. or C. P. "have there") this writ. Witness, (&c.)

(§ 13.)
The like, in
debt, and *distric-
tiones* in deti-
nue, on stat. 9
Ann. c. 14.

George the Third, (&c.) To the sheriff of — greeting :
We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made a certain debt of —*l.* which *A. B.* lately in our court before us (or in C. P. "before our justices," or in the Exchequer, "before the barons of our Exchequer") at *Westminster*, recovered against him, and also —*l.* which in our same court were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt, and of a certain metal watch, which the said *A. B.* also in our said court before us (or "before our said justices, or barons") at *Westminster* aforesaid, recovered against him, as for his costs and charges by him about his suit in that behalf expended; whereof, (&c.) And have that money, &c. (as before, p. 405. in K. B. p. 406. in the Common Pleas, or p. 407. in the Exchequer.) We also command you, that you distress the said *C. D.* by all his lands and chattels in your bailiwick, so that neither he nor any one by him do lay hands on the same, until you shall have another command from us in that behalf, and that you answer to us for the issues of the same, so that he render

der the said watch to the said *A. B.*; whereof, (&c.) And have there then (or by *original*, in K. B. or C. P. or in the Exchequer, "have there") this writ. Witness, (&c.)

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George the Third, (&c.) To the sheriff of — greeting : We command you, that of the goods and chattels of *G. H.* and *I. K.* in your bailiwick, you cause to be made a certain debt of —*l.* which *A. B. C. D.* and *E. F.* in the life-time of the said *E. F.* now deceased, and whom the said *A. B.* and *C. D.* have survived, lately in our court before us (or in C. P. "before our justices," or in the Exchequer, "before the barons of our Exchequer") at *Westminster*, recovered against the said *G. H.* and *I. K.* and *L. M.* in his life-time now deceased, and whom the said *G. H.* and *I. K.* have survived, and also —*l.* which in our same court before us (or "before our said justices, or barons") at *Westminster* aforesaid, were adjudged to the said *A. B. C. D.* and *E. F.* for their damages, (&c.) whereof, (&c.) : And have that money, &c. (as before, p. 405. in K. B. p. 406. in the Common Pleas; or p. 407. in the Exchequer.)

(§ 14.)

The like, in debt, by and against surviving partners.

George the Third, (&c.) To the sheriff of — greeting : We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made —*l.* for the damages assessed upon our writ of *scire facias*, according to the form of the statute in such case made and provided, by reason of the breach of the condition of a certain writing obligatory, made and given by the said *C. D.* to *A. B.* deceased, in the penal sum of —*l.*; and whereupon it was, after plea pleaded in a certain suit upon our said writ of *scire facias*, considered by our court before us (or in C. P. "before our justices," or in the Exchequer, "before the barons of our Exchequer") at *Westminster*, that *E. F.* and *G. H.* executors of the last will and testament of the said *A. B.* deceased, should have their execution against the said *C. D.* for the damages aforesaid, upon a certain judgment, before then recovered by the said *A. B.* deceased against the said *C. D.* upon the said writing obligatory, according to the form of the statute aforesaid; and also —*l.* which in our said court before us, (or "before our said justices, or barons,") were awarded to the said *E. F.* and *G. H.* as executors as aforesaid,

(§ 15.)

The like, at the suit of executors, on a judgment by the testator, in debt on bond, after a *scire facias* by the executors, suggesting a further breach, on stat. 8 & 9 W. III. c. 11. §

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said, for their costs and charges by them laid out in and about the prosecution of our said writ of *scire facias*, for having execution upon the said judgment, for the damages aforesaid; whereof, (&c.): And have the said monies, &c. (as before, p. 405. in K. B. p. 406. in the Common Pleas, or p. 407. in the Exchequer,) to be rendered to the said *E. F.* and *G. H.* as executors as aforesaid, for the damages costs and charges aforesaid, (or, in the Exchequer, "to be then and there paid," &c.) and have there then (or by *original*, in K. B. or C. P. or in the Exchequer, "have there") this writ. Witness, (&c.)

(§ 16.)

The like,
against an executor or administrator, *de bonis testatoris*, &c.

George the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and chattels, (&c.) you cause to be made a certain debt of —*l.* which *A. B.* lately in our court before us (or in C. P. "before our justices," or in the Exchequer, "before the barons of our Exchequer") at *Westminster*, recovered against the said *C. D.* as executor (or, administrator) as aforesaid, and also —*l.* which in our said court before us (or "before our said justices, or barons") at *Westminster* aforesaid, were adjudged to the said *A. B.* for his damages, &c. (as in a common *fieri facias* in debt,) if the said *C. D.* hath so-much thereof in his hands to be administered; and if he hath not so-much thereof in his hands to be administered, then that you cause the damages aforesaid to be made of the proper goods and chattels, in your bailiwick, of the said *C. D.* And have that money, &c. (as before, p. 405. in K. B. p. 406. in the Common Pleas, or p. 407. in the Exchequer.)

(§ 17.)

Fieri facias in covenant.

George the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made —*l.* which *A. B.* lately in our court before us (or in C. P. "before our justices," or in the Exchequer, "before the barons of our Exchequer") at *Westminster*, recovered against the said *C. D.* for his damages which he had sustained, as well on occasion of the breach of a certain covenant, made between the said *A. B.* and the said *C. D.* as for his costs and charges by him about his suit in that behalf expended; (or, in the Common Pleas or Exchequer, "for his damages," &c. omitting the costs;) whereof, (&c.) And have that money, &c. (as before, p. 405. in

in K. B. p. 406. in the Common Pleas, or p. 407. in the Exchequer.)

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For his damages which he had sustained, as well on occasion of a certain grievance, then lately committed by the said *C. D.* to the said *A. B.* as for his costs, &c. (or, in the Common Pleas or Exchequer, "for his damages," &c. omitting the costs;) whereof, (&c.) (\$ 18.)
In case.

For his damages which he had sustained, as well on occasion of the converting and disposing of certain goods and chattels of the said *A. B.* by the said *C. D.* as for his costs, &c. (or, in the Common Pleas or Exchequer, "for his damages," &c. omitting the costs;) whereof, (&c.) (\$ 19.)
In trover.

For his damages which he had sustained, as well on occasion of the speaking and publishing of certain false, scandalous, malicious and defamatory words, then lately spoken and published by the said *C. D.* to of and concerning the said *A. B.* as for his costs, &c. (or, in the Common Pleas or Exchequer, "for his damages," &c. omitting the costs;) whereof, (&c.) (\$ 20.)
In an action
for words.

For his damages which he had sustained, as well on occasion of a certain trespass, then lately committed by the said *C. D.* as for his costs, &c. (or, in the Common Pleas or Exchequer, "for his damages," &c. omitting the costs;) whereof, (&c.) (\$ 21.)
In trespass.

For his damages which he had sustained, as well on occasion of a certain trespass and assault, then lately committed by the said *C. D.* on the said *A. B.* as for his costs, &c., (or, in the Common Pleas or Exchequer, "for his damages," &c. omitting the costs;) whereof, (&c.) (\$ 22.)
In trespass and
assault.

George the Third, (&c.) To the chancellor of our county-palatine of *Lancaster*, or to his deputy there, greeting: We command you, that by our writ, under the seal of our said county-palatine to be duly made, and directed to the sheriff of the same county, you command the said sheriff, that of the goods and chattels of *C. D.* in his bailiwick, he cause to be made, (&c.) whereof, (&c.) And have you that money, &c. (as before, p. 406. in K. B. p. 406. in the Common Pleas, (\$ 23.)
To a county-
palatine.

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or p. 407. in the Exchequer,) to be rendered to the said *A. B.* for his damages (or "debt and damages") aforesaid; (or, in the Exchequer, "to be then and there paid," &c.) and have there then (or by *original*, in K. B. or C. P. or in the Exchequer, "have there") this writ.* Witness, (&c.)

(§ 24.)
After *scire facias*, by default.

(As in a common *fieri facias*, to the words, "whereof the said *C. D.* is convicted;" adding in K. B. "as appears to us of record;" or in the Exchequer, "as by inspecting the rolls of our said Exchequer, appears to us:") And whereupon it is considered, in our same court before us, (or in C. P. "before our said justices," or in the Exchequer, "before the barons of our said Exchequer,") that the said *A. B.* have his execution against the said *C. D.* of the damages (or "debt and damages") aforesaid, according to the force form and effect of the said recovery, by the default of the said *C. D.* (adding in K. B. "as also appears to us of record;" or in the Exchequer, "as by inspecting the rolls of our said Exchequer, also appears to us:") And have that money, &c. (as before, p. 405. in K. B. p. 406. in the Common Pleas, or p. 407. in the Exchequer.)

(§ 25.)
The like, after
plea or demur-
rer.

— whereof the said *C. D.* is convicted, (&c.) and also — *L.* which in our said court before us (or in C. P. "before our said justices," or in the Exchequer, "before the barons of our said Exchequer") at *Westminster* aforesaid, were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his costs and charges by him laid out in and about the prosecution of our writ of *scire facias*, for having execution upon the said judgment, for the damages (or "debt and damages") aforesaid: And whereupon it was, after plea pleaded (or "demurrer joined") therein, considered in our same court before us, (or "before our said justices, or barons,") that the said *A. B.* should have his execution against the said *C. D.* of the damages (or "debt and damages") aforesaid, according to the force form and effect of the said recovery, (&c.): And have the said monies, &c. (as before, p. 405. in K. B. p. 406. in the Common Pleas, or p. 407. in the Exchequer.)

(§ 26.)
The like,
against the

George the Third, &c. To the sheriff of — greeting:
We command you, that of the lands goods and chattels of
C. D.

C. D. in your bailiwick, you cause to be levied and made a certain debt of —*l.* which *A. B.* lately in our court before us, (or in C. P. “before our justices,” or in the Exchequer, “before the barons of our Exchequer”) at *Westminster*, recovered against him, and also —*l.* which in our said court were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt, as for his costs and charges by him about his suit in that behalf expended; (or, in the Common Pleas or Exchequer, “for his damages,” &c. omitting the costs;) whereof, (&c.) And whereupon it is considered, in our same court before us, (or “before our said justices, or barons,”) that the said *A. B.* have his execution against the said *C. D.* for the debt and damages aforesaid, to be levied, not on the person, but on the lands goods and chattels of the said *C. D.* (adding in K. B. “as also appears to us of record;” or in the Exchequer, “as by inspecting the rolls of our said Exchequer, also appears to us:”) And have that money, &c. (as before, p. 405. in K. B. p. 406. in C. P. or p. 407. in the Exchequer,) to be rendered to the said *A. B.* for his debt and damages aforesaid: (or, in the Exchequer, “to be then and there paid,” &c.) We also command you, that you take the said *C. D.* if he be found in your bailiwick, and him safely keep, so that you may have his body before us, (or “before our said justices, or barons”) at *Westminster*, on the return-day aforesaid, to satisfy the said *A. B.* —*l.* which in our said court before us, (or, in the Common Pleas or Exchequer, “in our same court,”) were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his costs and charges by him laid out in and about the prosecution of our writ of *scire facias*, for having execution upon the said first-mentioned judgment, for the debt and damages aforesaid; and have there then (or by *original*, in K. B. or C. P. or in the Exchequer, “have there”) this writ. Witness, (&c.)

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lands, &c. of a
defendant dis-
charged under
an insolvent
act, with a ca.
sa. for the costs
in *scire facias*.

Afterwards, to wit, on the day of in this same term, the said *A. B.* comes here into court by his attorney aforesaid, and prays that writ of the lord the king of *fieri facias*, to be directed to the sheriff of ——— commanding him that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made the damages (or “debt and damages”) afore-

(§ 27.)
Entry of our
fieri facias on
the roll, and
award of anno-
ther, in K. B.

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said; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —; the same day is given to the said *A. B.* at the same place: At which day, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the said sheriff of — hath not sent the said writ, nor hath he done any thing thereupon: Therefore, let another writ be thereupon made, and directed to the said sheriff of —, commanding him in form aforesaid; and it is granted, &c. returnable before the said lord the king at *Westminster*, on — next after —; the same day is given to the said *A. B.* at the same place.

(§ 28.)
Entry of *fiery facias*, and return of *nulla bona*, and award of *capias ad satisfaciendum*, in K. B.

Afterwards, to wit, on the — day of — in this same term, the said *A. B.* comes here into court by his attorney aforesaid, and prays the writ of the lord the king of *fiery facias*, to be directed to the sheriff of — commanding him, &c. (as in the last.) At which day, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the sheriff, to wit, — sheriff of the county aforesaid, thereupon returns to the said lord the king at *Westminster* aforesaid, that the said *C. D.* hath not any goods or chattels in his bailiwick, whereof he can cause to be made the damages (or “debt and damages”) aforesaid, or any part thereof. And hereupon the said *A. B.* prays the writ of the said lord the king of *capias ad satisfaciendum*, to be directed to the said sheriff of —, commanding him that he take the said *C. D.* if he be found in his bailiwick, and him safely keep, so that he may have his body before the said lord the king at *Westminster*, on — next after —, to satisfy the said *A. B.* the damages (or “debt and damages”) aforesaid; and it is granted to him, &c. the same day is given to the said *C. D.* at the same place.

(§ 29.)
Fiery facias on a *non pros*, for not declaring on a bill of *Middlesex*, or *latitat*, &c. in K. B.

George the Third, (&c.) To the sheriff of — greeting. We command you, that of the goods and chattels of *A. B.* in your bailiwick, you cause to be made —*l.* which lately in our court before us at *Westminster*, were adjudged to *C. D.* according to the form of the statute in such case made and provided, for his costs and charges by him laid out in and about his defence of and upon a certain precept called a bill of *Middlesex*,

Middlesex, (or, our certain writ of —,) issued out of our said court before us, at the suit of the said *A. B.* against the said *C. D.* for that the said *A. B.* had not declared thereupon, in our said court before us, by his bill or declaration in any personal action or ejectment, against the said *C. D.* before the end of — term, in the — year of our reign, being the next term after the appearance of the said *C. D.* at the suit of the said *A. B.*; whereof the said *A. B.* is convicted, as appears to us of record: And have that money before us at *Westminster*, on — next after —, to be rendered to the said *C. D.* for his costs and charges aforesaid; and have there then this writ. Witness, (&c.)

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For his costs and charges by him laid out in and about his defence in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of —*l.* (or as the plea is,) lately depending in our said court before us, at the suit of the said *A. B.* against the said *C. D.* for that the said *A. B.* had not prosecuted his writ against the said *C. D.* in the plea aforesaid; whereof, (&c.) And have that money, &c. (as before, p. 405. making the writ returnable on a general return-day, wheresoever, &c.)

(§ 30)
The like, by
original, in
K. B.

George the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made —*l.* which lately in our court before our justices at *Westminster*, were awarded to *A. B.* by the discretion of the said justices, according to the form of the statute in such case made and provided, for his costs and charges, &c. (as in the last, omitting the words “before us;”) whereof, (&c.) And have that money before our justices at *Westminster*, on —, to be rendered to the said *C. D.* for his costs and charges aforesaid; and have there this writ. Witness, (&c.)

(§ 31)
The like, in
C. P.

For his costs and charges by him laid out in and about his defence in a certain action of trespass on the case upon promises, (or as the action is,) lately depending in our said court before us, (or in C. P. “before our justices,” or in the Exchequer, “before the barons of our Exchequer”) at *Westminster*, at the suit of the said *A. B.* against the said *C. D.*

(§ 32)
The like, for
not replying, in
K. B. or C. P.

CHAP. for that the said *A. B.* had not replied to certain pleas, then
 XXXIX. lately pleaded by the said *C. D.* in the said action, or further
 prosecuted the same ; whereof, &c. (as before.)

(§ 33.) For his costs and charges, (&c.) for that the said *A. B.* had
 The like, for not surrejoined to certain rejoinders, then lately made by the
 ing, said *C. D.* in the said action, or further prosecuted the same ;
 whereof, &c. (as before.)

(§ 34.) For his costs and charges, (&c.) for that the said *A. B.* had
 The like, for not entered a certain issue (or certain issues), then lately joined
 entering the issue, between the said *A. B.* and the said *C. D.* in the said action,
 or further prosecuted the same ; whereof, &c. (as before.)

(§ 35.) For his costs and charges, (&c.) for that the said *A. B.* had
 The like, on a neglected to bring a certain issue, before then joined in the
 judgment as in said action, on to be tried, according to the course and prac-
 case of a non- tice of the said court ; whereof, &c. (as before.)
 suit.

(§ 36.) For his costs and charges by him laid out in and about his
 The like, on a defence in a certain action of trespass on the case upon pro-
 nonsuit, in mises, (or as the action is,) lately brought in our said court
 K. B. or C. P. before us, (or in C. P. “ before our justices”) at *West-*
minster, by the said *A. B.* against the said *C. D.* for that the
 said *A. B.* did not prosecute the said action ; whereof, &c. (as
 before.)

(§ 37.) For his costs and charges, (&c.) by the discretion of our
 The like, in the said court ; for that the said *A. B.* did not prosecute his bill
 Exchequer, against the said *C. D.* in our said court lately brought, in a
 plea of trespass on the case, (or as the plea is) ; whereof the
 said *C. D.* is convicted, as by inspecting the rolls of our said
 Exchequer, appears to us : And have that money, (&c.)

(§ 38.) For his costs and charges by him laid out in and about his
 The like, on a defence in a certain action of trespass on the case upon pro-
 verdict or de- mises, (or as the action is,) lately prosecuted in our said court
 fendant, in before us, (or in C. P. “ before our justices”) at *West-*
 K. B. or C. P. *minster*, by the said *A. B.* against the said *C. D.* ; whereof, &c.
 (as before.)

George the Third, (&c.) To the sheriff of ———greeting: We command you, that of the goods and chattels of *A. B.* in your bailiwick, you cause to be made the sum of ———*l.* parcel of the sum of ———*l.* which lately in our court before us, (or in C. P. “before our justices,” or in the Exchequer, “before the barons of our Exchequer”) at *Westminster*, were adjudged to *C. D.* according to the form of the statute in such case made and provided, for his costs and charges by him laid out in and about his defence in a certain action of trespass on the case upon promises, lately prosecuted in our said court before us, (omitting “before us” in the Common Pleas or Exchequer,) by the said *A. B.* against the said *C. D.* and in which said action he the said *C. D.* was arrested and held to special bail at the suit of the said *A. B.* to the amount of the sum of ———*l.* after deducting the sum of ———*l.* recovered by the said *A. B.* in the said action, from the amount of the said sum of ———*l.*; for that the said *A. B.* had not any reasonable or probable cause for causing the said *C. D.* to be arrested and held to special bail, in such amount as aforesaid; whereof, (&c.)

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XXXIX.
(§ 39.)
The bill, for
the difference
between the
taxed costs
and sum reco-
vered, on stat.
43 Geo. III.
c. 46. § 3.
where the
plaintiff reco-
vers less than
the sum for
which the de-
fendant was
held to bail.

Whereas the above-named sheriff, by virtue of his majesty's writ of *fieri facias* to him directed, against the goods and chattels of *C. D.* issued out of his majesty's court of King's Bench (or Common Pleas, or Exchequer) at *Westminster*, and there returnable on ———, at the suit of the above-bounden *A. B.* hath seized and taken divers goods and chattels, as the proper goods and chattels of the said *C. D.* in execution: And whereas, since the seizing and taking of the said goods and chattels in execution as aforesaid, the same and every part thereof have been claimed by *E. F.* who hath given notice to the said sheriff, not to proceed to a sale of the said goods and chattels, or to pay over the money arising from the sale thereof to the said *A. B.*: And whereas the said *A. B.* hath applied to the said sheriff, and requested him to sell the said goods and chattels, so seized as aforesaid, under and by virtue of the said writ of *fieri facias*, notwithstanding such claim and notice, and to pay to him the said *A. B.* the money arising from the sale thereof, in satisfaction and discharge of the debt and damages, directed to be levied by the said writ of *fieri facias*;

(§ 40.)
Condition of
bond to main-
tain sheriff, for
selling on a
fieri facias.

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facias; and that he the said *A. B.* would indemnify the said sheriff for so doing: whereupon the said sheriff, in obedience to the said writ, and at the special instance and request of the said *A. B.* hath consented to sell the said goods and chattels, so seized and taken in execution as aforesaid, and to pay over to him the money arising from the sale thereof, in satisfaction and discharge of the debt and damages above-mentioned, upon being indemnified for so doing. Now the condition of the above-written obligation is such, that if the above-bounden *A. B.* his heirs executors or administrators, do and shall from time to time, and at all times hereafter, well and sufficiently save harmless and keep indemnified the said sheriff, his under-sheriff deputy and officers, and each and every of them, of from and against all losses, costs, charges, damages and expences, which he or they shall or may sustain, suffer, bear, pay, expend, or be put unto, for or by reason or means of seizing or selling the said goods and chattels, so seized and taken in execution as aforesaid, or paying unto the said *A. B.* the money arising from the sale thereof, in satisfaction and discharge of the debt and damages, so directed to be levied by the said writ of *fieri facias*; and also of from and against all action and actions, suit and suits, either in law or equity, which now are, or shall or may at any time or times hereafter be brought, commenced or prosecuted, by the said *E. F.* or by any person or persons whomsoever, against the said sheriff, his under-sheriff deputy and officers, or any or either of them, for or on account, or by reason or by means, of the seizing or selling the said goods and chattels, under the said writ of *fieri facias*, or paying unto the said *A. B.* the money arising from the sale thereof as aforesaid, or for or by reason or means of any other act, matter, cause or thing whatsoever, relating thereto, or to the execution of the said writ of *fieri facias*, then the above-written obligation to be void, otherwise to stand and remain in full force vigour and effect.

Scaled, (&c.)

Return of nulla
bona. The within-named *C. D.* has no goods or chattels in my bailiwick, whereof I can cause to be made the damages (or "debt and damages") within-mentioned, or any part thereof, according to the exigency of this writ.

The answer of — sheriff.
The

The within-named *C. D.* has no goods or chattels, nor any lay fee, in my bailiwick, whereof I can cause to be made the damages (or “debt and damages”) within-mentioned, or any part thereof, as within I am commanded; but I do hereby certify, that the said *C. D.* is a beneficed clerk, to wit, rector of the rectory (or “vicar of the vicarage”) and parish church of — in my county; which said rectory (or “vicarage”) and parish church are within the diocese of the reverend father in God — by divine permission, lord bishop of —.

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(§ 42.)
Nulla bona, and that the defendant is a beneficed clerk, &c.

The answer, (&c.)

The within-named *C. D.* has no goods or chattels, which were of the within-named *E. F.* at the time of his death, in his hands to be administered, in my bailiwick, whereof I can cause to be made the damages (or “debt and damages”) within-mentioned, or any part thereof; and he has not any of his own proper goods or chattels, in my bailiwick, whereof I can cause to be made the within-mentioned sum of — *l.* parcel, &c. (or in *debt*, “the damages aforesaid,”) or any part thereof, according to the exigency of this writ.

(§ 43.)
Nulla bona testatoris nec p. u. an action against an executor or adm.

The answer, (&c.)

The within-named *C. D.* has no goods or chattels, &c. (as before); but divers goods and chattels, which were of the said *E. F.* at the time of his death, to the value of the damages (or “debt and damages”) within-mentioned, after the death of the said *E. F.* came to the hands of the said *C. D.* to be administered; which said goods and chattels the said *C. D.* hath before the coming of this writ to me directed, eloiigned, wasted, and converted to his own use.

(§ 44.)
The like, with a devastant.

The answer, (&c.)

By virtue of this writ to me directed, I have caused to be made of the goods and chattels of the within-named *C. D.* the damages (or “debt and damages”) within-mentioned; which I have ready before the lord the king, (or in *C. P.* “before the justices of the lord the king;” or in the Exchequer, “before the barons of his majesty’s Exchequer,”) at the day and place within contained, to be rendered to the said *A. B.* for his damages (or “debt and damages”) aforesaid, as within I am commanded.

(§ 45.)
Exec. proc.

The answer, (&c.)

By

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(\$ 46.)

The like upon
a mandamus bali-
vo.

By virtue, (&c.) I made my mandate to the bailiff of *E. F.* Esquire, of his liberty of —, who hath the execution and return of all writs and process within the said liberty, and without whom no execution of this writ could be made by me within the same; which said bailiff hath returned to me, that by virtue of my said mandate, to him thereupon directed, he hath caused to be made of the goods and chattels of the within-named *C. D.* the damages (or “debt and damages”) within-mentioned; and that he hath that money ready, before the lord the king, (or in *C. P.* “before the justices of the lord the king;” or in the Exchequer, “before the barons of his majesty’s Exchequer,”) at the day and place within contained, as by my said mandate he was commanded.

The answer, (&c.)

)
for
part, and in
bond as to the
residue.

By virtue, (&c.) I have caused to be made of the goods and chattels of the within-named *C. D.* the sum of —*l.* which money I have ready before the lord the king, (or in *C. P.* “before the justices of the lord the king;” or in the Exchequer, “before the barons of his majesty’s Exchequer,”) at the day and place within contained, to render to the said *A. B.* in part of his damages (or “debt and damages”) within-mentioned: And I further certify to the said lord the king, that the said *C. D.* has not any other or more goods or chattels in my bailiwick, whereof I can cause to be made the residue of the damages (or “debt and damages”) aforesaid, according to the exigency of this writ.

The answer, (&c.)

(\$ 48.)

The like, and
that the sheriff
has paid part of
the sum levied
to the landlord
for rent.

By virtue of this writ to me directed, I have caused to be made of the goods and chattels of the within-named *C. D.* to the value of —*l.* And I further certify, that I have paid to — the landlord of the premises on which the said goods and chattels were taken, the sum of —*l.* for — rent due to him for the said premises, at — last; and that I have retained in my hands the sum of —*l.* for poundage upon the said sum of —*l.* making together with the said sum of —*l.* the sum of —*l.* and the remaining sum of —*l.* I have ready, as within I am commanded: And the said *C. D.* hath not any other or more goods or chattels in my bailiwick, whereof I
can

can cause to be made the residue of the damages (or "debt and damages") within-mentioned, or any part thereof.

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The answer, (&c.)

By virtue, (&c.) I have sent my mandate to the bailiff of the liberty of — in my county, who hath the execution and return of all writs and process within the same liberty, and without whom no execution of this writ by me could be made within the same liberty; which said bailiff hath answered me, that by virtue of the said mandate to him directed, he took in execution divers goods and chattels of the within-named *C. D.* which he kept possession of for the space of — days, and at the expiration of that time sold by public auction, by the direction of *E. F.* the attorney of and for the within-named *A. B.* and that the said *E. F.* as such attorney of and for the said *A. B.* was the highest bidder for, and declared the buyer at such sale, of divers of the said goods and chattels, to the amount of —*l.* which sum still remains unpaid; and that the said bailiff caused to be made of the said goods and chattels so taken in execution, over and besides the said sum of —*l.* the sum of —*l.* out of which last-mentioned sum of money he paid to *G. H.* the landlord of the premises whereon the said goods and chattels were taken, the sum of —*l.* for rent due to him at — last; and that he also paid the sum of —*l.* for king's taxes, due for and in respect of the said premises, at the time of taking the said goods and chattels; and that he hath retained the sum of —*l.* with the consent of the said *E. F.* for the necessary charges and expences of, and attending the keeping possession of and selling the said goods and chattels by auction as aforesaid, and also the sum of —*l.* for poundage; and the remainder of the said sum of —*l.* the said bailiff hath paid to me, and I have the same ready to be rendered to the said *A. B.* as within I am commanded: And the said bailiff hath further answered me, that the said *C. D.* hath not any other or more goods or chattels in his liberty, whereof he can cause to be made the residue of the damages (or "debt and damages") within-mentioned, or any part thereof: And I further certify and return, that the said *C. D.* hath not any other or more goods or chattels in my bailiwick, whereof I can cause to be made the residue

(§ 49.)
The like, upon
a *mandavi baci-*
lico, under
special cir-
cumstances.

of

CHAP. of the damages (or "debt and damages") aforesaid, or any part
XXXIX. thereof.

The answer, (&c.)

(§ 50.)
That the sheriff has taken goods, which remain in his hands, for want of buyers.

By virtue, (&c.) I have taken goods and chattels of the within-named *C. D.* to the value of the damages (or "debt and damages") within-mentioned, which goods and chattels remain in my hands unsold, for want of buyers; therefore I cannot have that money before the lord the king, (or in C. P. "before the justices of the lord the king;" or in the Exchequer, "before the barons of his majesty's Exchequer,") at the day and place within contained, as I am within commanded.

The answer, (&c.)

(§ 51.)
The like, where part of the goods have been sold, and the rest remain in his hands, &c.

By virtue, (&c.) I have taken goods and chattels of the within-named *C. D.* to the value of —*l.* and have exposed them to sale from day to day, and have thereof sold to the value of —*l.* which money I have ready, before the lord the king, (or in C. P. "before the justices of the lord the king;" or in the Exchequer, "before the barons of his majesty's Exchequer,") at the day and place within contained, to be rendered to the within-named *A. B.* as within I am commanded; and the residue of the goods and chattels aforesaid still remain in my hands unsold, for want of buyers.

The answer, (&c.)

(§ 52.)
*Non omittas
feri facias.*

George the Third, (&c.) To the sheriff of — greeting: We command you, that you do not omit by reason of any liberty in your county, but that you enter the same, and of the goods and chattels, &c. (as before.)

(§ 53.)
*Testatum fieri
facias, in as-
sumpsit.*

George the Third, (&c.) To the sheriff of — greeting. We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made, &c. (as before, p. 405. in K. B. or p. 406. in C. P. to the words "damages aforesaid;" or in the Exchequer, as before, p. 407. to "his attorney in this behalf," and then as follows :) And whereupon our sheriff of — at a certain day now past, returned to us,

(or

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for in C. P. “to our said justices,” or in the Exchequer, “to the barons of our said Exchequer”) at *Westminster*, that the said *C. D.* had not any goods or chattels in his bailiwick, whereof he could cause to be made the damages aforesaid, or any part thereof; whereas it is testified in our same court, that the said *C. D.* hath sufficient goods and chattels in your bailiwick, whereof you may cause to be made the damages aforesaid, and every part thereof; and have there then (or by *original*, in K. B. or C. P. or in the Exchequer, “have there”) this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of — greeting : (§ 54.)
The like, in
debt.
We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made, &c. (as before, p. 405. in K. B. or p. 406. in C. P. to the words “debt and damages aforesaid;” or in the Exchequer, as before, p. 407. to “his attorney in this behalf,” and then as follows :) And whereupon our sheriff of — at a certain day now past, returned to us, (or in C. P. “to our said justices,” or in the Exchequer, “to the barons of our said Exchequer”) at *Westminster*, that the said *C. D.* had not any goods or chattels in his bailiwick, whereof he could cause to be made the debt and damages aforesaid, or any part thereof; whereas it is testified in our same court, that the said *C. D.* hath sufficient goods and chattels in your bailiwick, whereof you may cause to be made the debt and damages aforesaid, and every part thereof; and have there then (or by *original*, in K. B. or C. P. or in the Exchequer, “have there”) this writ. Witness, (&c.)

Afterwards, that is to say, on the — day of — in this same term, the said *A. B.* comes here into court, by his attorney aforesaid, and prays the writ of the said lord the king of *fieri facias*, to be directed to the sheriff of —, commanding him, that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made the damages (or “debt and damages”) aforesaid; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —; the same day is given to the said *A. B.* at the same place: At which day, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the sheriff, to wit, — sheriff of the county aforesaid, there-
upon

(§ 55.)
Entry of *fieri facias* and *testation* on the roll, in K. B.

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upon returns to the said lord the king at *Westminster* aforesaid, that the said *C. D.* hath not any goods or chattels in his bailiwick, whereof he can cause to be made the damages (or “debt and damages”) aforesaid, or any part thereof: Whereupon, on the behalf of the said *A. B.* it is sufficiently testified in the said court of the said lord the king before the king himself, that the said *C. D.* hath sufficient goods and chattels in the county of —, whereof the sheriff of that county may cause to be made the damages (or “debt and damages”) aforesaid, and every part thereof: And thereupon the said *A. B.* prays the writ of the said lord the king of *testatum fieri facias*, to be directed to the sheriff of the said county of —, commanding him, that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made the damages (or “debt and damages”) aforesaid; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —; the same day is given to the said *A. B.* at the same place: At which day, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the said sheriff of — thereupon returns to the said lord the king at *Westminster* aforesaid, that he hath caused to be made of the goods and chattels of the said *C. D.* in his bailiwick, the sum of —*l.* which money he has paid to the said *A. B.* in part satisfaction of the damages (or “debt and damages”) aforesaid; and that the said *C. D.* hath not any other or more goods or chattels in his bailiwick, whereof he can cause to be made the residue of the damages (or “debt and damages”) aforesaid, or any part thereof.

(§ 56.)
Testatum fieri facias, into a county-palatine.

George the Third, (&c.) To our chancellor of our county-palatine of *Lancaster*, or to his deputy there, greeting: We command you, that by our writ, under the seal of our said county-palatine to be duly made, and directed to the sheriff of the same county, you command the said sheriff, that of the goods and chattels of *C. D.* in his bailiwick, he cause to be made, &c. (as before, p. 405. in K. B. or p. 406. in C. P. to the words “damages aforesaid;” or in the Exchequer, as before, p. 407. to “his attorney in this behalf,” and then as follows:) And whereupon our sheriff of — at a certain day now past, returned, &c. (as before, § 53. or 54. making the *testatum* part accord with the following writ.)

George

George the Third, (&c.) To the sheriff of — greeting : CHAP.
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(§ 57.)
Whereas we lately commanded our chancellor of our county- The like, from
a county-pala-
tine.
palatine of Lancaster, that by our writ, under the seal of our
said county-palatine to be duly made, and directed to the
sheriff of our said county-palatine, he should command the
said sheriff, that of the goods and chattels of C. D. in his
bailiwick, he should cause to be made, &c. (reciting the former
writ) : And our said chancellor of our said county-palatine at
that day returned to us, (or in C. P. “to our said justices,”
or in the Exchequer, “to the barons of our said Exchequer,”)
at Westminster aforesaid, that by virtue of the said writ to him
directed, he had by another writ under the seal of our said
county-palatine duly made, and directed to the sheriff of the
same county, commanded the said sheriff, as by the said first-
mentioned writ he was commanded ; which said sheriff, in
answer to the said writ to him directed, had returned to our
said chancellor, that the said C. D. had no goods or chattels
in his bailiwick, whereof he could cause to be made the da-
mages (or “debt and damages”) aforesaid, or any part thereof.
Whereupon, on behalf of the said A. B. it is sufficiently testi-
fied in our said court before us, (or in C. P. “before our said
justices,” or in the Exchequer, “before the barons of our
said Exchequer,”) at Westminster aforesaid, that the said C. D.
hath sufficient goods and chattels in your bailiwick, whereof
you may cause to be made the damages (or “debt and damages”)
aforesaid, and every part thereof : Therefore we command
you, that of the goods and chattels of the said C. D. in your
bailiwick, you cause to be made the damages (or “debt and
damages”) aforesaid : And have that money, &c. (as before, p.
405. in K. B. p. 406. in C. P. or p. 407. in the Exche-
quer) ; and have there then (or by original, in K. B. or
C. P. or in the Exchequer, “have there”) this writ. Wit-
ness, (&c.)

George the Third, (&c.) To the reverend father in God (§ 58.)
— by divine providence, lord bishop of Durham, or to his The like, from
one county-
palatine to an-
other.
chancellor there, greeting : Whereas we lately commanded
our chancellor of our county-palatine of Lancaster, that by
our writ under the seal of our said county-palatine to be duly
made, and directed to the sheriff of our said county-palatine
of Lancaster, he should command the same sheriff, that he
should

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should cause to be made, &c. (reciting the former writ): And our said chancellor of our said county-palatine of *Lancaster* at that day returned to us, (or in C. P. "to our said justices," or in the Exchequer, "to the barons of our said Exchequer,") at *Westminster* aforesaid, that by virtue of our said writ to him directed, he had by another writ, &c. (as in the last); which said sheriff, in answer to the said writ to him directed, had returned to our said chancellor, that the said *C. D.* had no goods or chattels in his bailiwick, whereof he could cause to be made the damages (or "debt and damages") aforesaid, or any part thereof: Whereupon, on behalf of the said *A. B.* it is sufficiently testified in our said court before us, (or "before our said justices," or "barons,") at *Westminster* aforesaid, that the said *C. D.* hath sufficient goods and chattels in your bishoprick, whereof you may cause to be made the damages (or "debt and damages") aforesaid, and every part thereof: Therefore we command you, that by our writ, under the seal of your said bishoprick to be duly made, and directed to the sheriff of the county of *Durham*, you command the said sheriff, that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made the damages (or "debt and damages") aforesaid: And have that money, &c. (as before, p. 405. in K. B. p. 406. in C. P. or p. 407. in the Exchequer;) and have there then (or by *original*, in K. B. or C. P. or in the Exchequer, "have there") this writ. Witness, (&c.)

(§ 59.)
Fieri facias for
the residue, in
assumpsit.

George the Third, (&c.) To the sheriff of — greeting: Whereas by our writ we lately commanded you, that of the goods and chattels of *C. D.* in your bailiwick, you should cause to be made — *l.* which *A. B.* then lately in our court before us, (or in C. P. "before our justices," or in the Exchequer, "before the barons of our Exchequer") at *Westminster*, had recovered against *C. D.* for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended; (or in the Common Pleas or Exchequer, "for his damages," &c. omitting the costs;) whereof, (&c.) and that you should have that money before

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before, (&c.) on, (&c.) to be rendered to the said *A. B.* for his damages aforesaid, (or in the Exchequer, “to be then and there paid, &c.): And you at that day returned to us, (or in C. P. “to our said justices,” or in the Exchequer, “to the barons of our said Exchequer,”) at *Westminster* aforesaid, that by virtue of the said writ to you directed, you had caused to be made of the goods and chattels of the said *C. D.* —*l.* parcel of the damages aforesaid, which money you had ready at the day and place in the said writ contained, as by the said writ you were commanded; and that the said *C. D.* had not any other or more goods or chattels in your bailiwick, whereof you could cause to be made the residue of the damages aforesaid, or any part thereof: Therefore we command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made —*l.* residue of the damages aforesaid: And have that money, &c. (as before, p. 405. in K. B. p. 406. in C. P. or p. 407. in the Exchequer,) to be rendered to the said *A. B.* for the residue of his damages aforesaid; (or in the Exchequer, “to be then and there paid,” &c.) and have there then (or by *original*, in K. B. or C. P. or in the Exchequer, “have there”) this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of — greeting: (§ 60.)
Whereas we lately commanded you, that of the goods and chattels of *C. D.* in your bailiwick, you should cause to be made, &c. (to the end of the *fieri facias*): And you at that day returned to us, (or in C. P. “to our said justices,” or in the Exchequer, “to the barons of our said Exchequer”) at *Westminster*, that by virtue of the said writ to you directed, you had caused to be made of the goods and chattels of the said *C. D.* in your bailiwick, the sum of —*l.* parcel of the debt and damages aforesaid, which money you had ready, at the day and place in the said writ contained, as by the said writ you were commanded; and that the said *C. D.* had not any other or more goods and chattels in your bailiwick, whereof you could cause to be made the residue of the debt and damages aforesaid, or any part thereof: Therefore we command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made —*l.* residue
of

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of the debt and damages aforesaid : And have that money, &c. (as before, p. 405. in K. B. p. 406. in C. P. or p. 407. in the Exchequer,) to be rendered to the said *A. B.* for the residue of his debt and damages aforesaid ; (or in the Exchequer, “ to be then and there paid,” &c.) and have there then (or by *original*, in K. B. or C. P. or in the Exchequer, “ have there”) this writ. Witness, (&c.) *

(§ 61.)
Testatum fieri
facias, for the
residue.

George the Third, (&c.) To the sheriff of — greeting :
Whereas by our writ we lately commanded our sheriff of —, that of the goods and chattels, &c. (to the end of the *fieri facias*, and then as follows) : And our said sheriff of — at that day returned to us, (or in C. P. “ to our said justices,” or in the Exchequer, “ to the barons of our said Exchequer,”) at *Westminster* aforesaid, that by virtue of the said writ to him directed, he had caused to be made of the goods and chattels of the said *C. D.* — *l.* parcel of the damages (or “ debt and damages”) aforesaid, which money he had ready, at the day and place in the said writ contained, as by the said writ he was commanded ; and that the said *C. D.* had not any other or more goods or chattels in his bailiwick, whereof he could cause to be made the residue of the damages (or “ debt and damages”) aforesaid, or any part thereof : And because it is sufficiently testified in our said court before us, (omitting “ before us” in the Common Pleas or Exchequer,) that the said *C. D.* hath sufficient goods and chattels in your bailiwick, whereof you may cause to be made the residue of the damages (or “ debt and damages”) aforesaid ; therefore we command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made — *l.* residue of the damages (or “ debt and damages”) aforesaid ; And have that money, &c. (as before, p. 405. in K. B. p. 406. in C. P. or p. 407. in the Exchequer,) to be rendered to the said *A. B.* for the residue of his damages (or “ debt and damages”) aforesaid ; (or in the Exchequer, “ to be then and there paid,” &c.) ; and have there then (or by *original*, in K. B. or C. P. or in the Exchequer, “ have there”) this writ. Witness, (&c.)

(§ 62.)
The like, where
part had been
levied upon a

George the Third, (&c.) To the sheriff of — greeting :
Whereas by our writ we lately commanded our sheriff of —

—, that of the goods and chattels, &c. (here recite the first *feri factus*): And our said sheriff of — at that day returned to us, (or in C. P. “to our said justices,” or in the Exchequer, “to the barons of our said Exchequer,”) that the said C. D. had not any goods or chattels in his bailiwick, whereof he could cause to be made the damages (or “debt and damages”) aforesaid, or any part thereof: And thereupon, on behalf of the said A. B. it was sufficiently testified in our said court before us, (omitting “before us” in the Common Pleas or Exchequer,) that the said C. D. had sufficient goods and chattels in your county, whereof the damages (or “debt and damages”) aforesaid might be fully made; whereupon, by our certain other writ, we commanded the then sheriff of your said county, that of the goods and chattels of the said C. D. in his bailiwick, he should cause to be made the damages (or “debt and damages”) aforesaid; and that he should have that money before us, (or “before our said justices, or barons”) at Westminster, on — last past, to be rendered to the said A. B. for his damages (or “debt and damages”) aforesaid, (or, in the Exchequer, “to be then and there paid,” &c.): And the said then sheriff of your said county on that day returned to us, (or “to our said justices, or barons,”) that by virtue of the said writ to him directed, he had caused to be made, &c. (as in the last): And now on behalf of the said A. B. it is further sufficiently testified in our said court before us, (omitting “before us” in the Common Pleas or Exchequer,) that the said C. D. hath sufficient goods and chattels in your bailiwick, whereof the residue of the damages (or “debt and damages”) aforesaid may be fully made: Therefore we command you, that of the goods and chattels of the said C. D. in your bailiwick, you cause to be made — l. residue of the damages (or “debt and damages”) aforesaid: And have that money, &c. (as before, p. 405. in K. B. p. 406. in C. P. or p. 407. in the Exchequer.)

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XXXIX.
Lectures to a
former sheriff.

George the Third, (&c.) To our chancellor of our county-palatine of Lancaster; or to his deputy there, greeting: Whereas by our writ we lately commanded our sheriff of —, that of the goods and chattels, &c. (receiving the first *fiert facias*): And our said sheriff of — at that day returned to us, (or in C. P. "to our justices," or in the Exchequer, "to the

(§ 33)
The life, where
the testator
issued into a
county-pala-
tine.

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barons of our Exchequer") at *Westminster*, that the said *C. D.* had no goods or chattels in his bailiwick, whereof he could cause to be made the damages (or "debt and damages") aforesaid, or any part thereof: And it was thereupon sufficiently testified in our said court before us, (omitting "before us" in the Common Pleas or Exchequer,) that the said *C. D.* had sufficient goods and chattels in our said county-palatine, whereof the damages (or "debt and damages") aforesaid might be fully made: Whereupon, by our writ of *testatum fieri facias*, we lately commanded our chancellor of our said county-palatine, that by our writ, under the seal of our said county-palatine to be duly made, and directed to the sheriff of the said county, he should command the said sheriff, that of the goods and chattels of the said *C. D.* in his bailiwick, he should cause to be made the damages (or "debt and damages") aforesaid; and that the said sheriff should have that money before us, (or "before our said justices, or barons,") at *Westminster*, on, (&c.) to be rendered to the said *A. B.* for his damages (or "debt and damages") aforesaid, (or, in the Exchequer, "to be then and there paid," &c.): And our said chancellor of our said county-palatine at that day returned to us, (or "to our said justices, or barons,") that by virtue of the said writ to him directed, he had by another writ, under the seal of our said county-palatine duly made, and directed to the sheriff of the same county, commanded the said sheriff, as by the said writ of *testatum fieri facias* he was commanded; which said sheriff, in answer to the said last-mentioned writ, had returned to our said chancellor, that by virtue of the said writ to him directed, he had caused to be made, &c. (as in the two former writs): And now on behalf of the said *A. B.* it is further sufficiently testified in our said court before us, (omitting "before us" in the Common Pleas or Exchequer,) that the said *C. D.* hath sufficient goods and chattels in our said county-palatine, whereof the residue of the damages (or "debt and damages") aforesaid may be fully made: Therefore we command you, that by our writ, under the seal of our said county-palatine to be duly made, and directed to the sheriff of the same county, you command the said sheriff, that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made — the residue of the damages

mages (or "debt and damages") aforesaid; and that he have that money, &c. (as before, p. 405. in K. B. p. 406. in C. P. or p. 407. in the Exchequer.)

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George the Third, (&c.) To the reverend father in God — by divine permission, lord bishop of — greting: We command you, that of the ecclesiastical goods of C. D. clerk, in your diocese, you cause to be made a certain debt of — l. which A. B. lately in our court before us, (or in C. P. "before our justices," or in the Exchequer, "before the barons of our Exchequer") at Westminster, recovered against him, and also — l. which in our said court before us at Westminster aforesaid, (or, in the Common Pleas or Exchequer, "in our same court,") were adjudged to the said A. B. for his damages which he had sustained, as well on occasion of the detention of the said debt, as for his costs and charges by him about his suit in that behalf expended; (or, in the Common Pleas or Exchequer, "for his damages," &c. omitting the costs;) whereof, (&c.) And have that money, &c. (as before, p. 405. in K. B. p. 406. in C. P. or p. 407. in the Exchequer,) to be rendered to the said A. B. for his debt and damages aforesaid, (or, in the Exchequer, "to be then and there paid," &c.): And whereupon our sheriff of — returned to us, (or "to our said justices, or barons,") at Westminster aforesaid, on, (&c.) in this same term, (or, in — term last past,) that the said C. D. had not any goods or chattels, or any lay fee, in his bailiwick, whereof he could cause to be made the debt and damages aforesaid, of any part thereof; and that the said C. D. was a beneficed clerk, to wit, rector of the rectory (or "vicar of the vicarage") and parish church of — in the said sheriff's county, and within your diocese; and have therefor by original, in K. B. or C. P. or in the Exchequer, "by writ," this writ. Witness, (&c.)

(§ 64.)
Fieri facias de
bonis ecclesiasti-
cis, in d. bi.

The sheriff was commanded, that of the goods and chattels of C. D. in his bailiwick, he should cause to be made a certain debt of — l. which A. B. lately in the court of the lord the king, before the king himself, or in C. P. "before the justices," recovered against him, and also — l.

(§ 65.)
Entry thereof,
in K. B. or
C. P.

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which in the same court here were adjudged to the said *A. B.* for his damages, &c. (as in the last;) whereof, (&c.) and that the said sheriff should have that money before, (&c.) on this day, that is to say, on, (&c.) to be rendered to the said *A. B.* for his debt and damages aforesaid: And now here at this day, comes the said *A. B.* by — his attorney; and the sheriff now here returns, that the said *C. D.* hath no goods or chattels, nor any lay fee, in his bailiwick, whereof he can cause to be made the debt and damages aforesaid, or any part thereof; and that the said *C. D.* is a beneficed clerk, to wit, rector of the rectory (or "vicar of the vicarage") and parish church of — in the said sheriff's county, and within the diocese of —: Therefore it is commanded to the reverend father in God — by divine permission, lord bishop of —, that of the ecclesiastical goods of the said *C. D.* in his diocese, he cause to be made the debt and damages aforesaid; and that he have that money here, on, (&c.) to be rendered to the said *A. B.* for his debt and damages aforesaid, &c.

(§ 66)

*Quare facias de
bonis eccl'ie asti-*
cas, in the ar-
rears of an an-
nuit), in C. P.

George the Third, (&c.) To the reverend father in God — by divine permission, lord bishop of — greeting: We command you, that of the ecclesiastical goods of *C. D.* clerk, in your diocese, you cause to be levied —, which *A. B.* lately in our court before our justices at *Westminster*, recovered against him, for the arrears of a certain annual rent of —, to be paid to the said *A. B.* every year, at the feasts of — and —, by even and equal portions; and also —, which in our same court were adjudged to the said *A. B.* for his damages which he had sustained, on occasion of the detention of the annual rent aforesaid; whereof the said *C. D.* is convicted: And have the said monies, before our said justices at *Westminster* aforesaid, on — to be rendered to the said *A. B.* for the arrears and damages aforesaid; and have there this writ. Witness our Vicary Gibbs knight, (&c.)

(§ 67)

Sequestrari fa-
ciat.

George the Third, (&c.) To the reverend father in God — by divine permission, lord bishop of — greeting: Whereas we lately commanded our sheriff of —, that he should cause to be made, &c. (relating the said writ:) And whereupon our said sheriff of — on that day returned to us,

us, (or in C. P. "to our said justices," or in the Exchequer, "to the barons of our said Exchequer") at *Westminster*, that the said *C. D.* was a beneficed clerk, to wit, rector of the rectory and parish church of — in the county of — and in your diocese, and had not any goods or chattels in his bailiwick, whereof he could cause to be made the said debt and damages, or any part thereof: Therefore we command you, that you enter into the said rectory and parish church of — and take and sequester the same into your possession, and that you hold the same in your possession, until you shall have levied the said debt and damages, of the rents, tithes, oblations, obventions, fruits, issues and profits thereof, and other ecclesiastical goods of the said *C. D.* in your diocese, to be rendered to the said *A. B.* for his debt and damages aforesaid; (or, in the Exchequer, "to be then and there paid," &c.); whereof, (&c.): And what you shall do therein, make appear to us, (or in C. P. "to our said justices," or in the Exchequer, "to the barons of our said Exchequer,") at *Westminster* aforesaid, on, (&c.); and have there then (or by original, in K. B. or C. P. or in the Exchequer, "have there") this writ. Witness, (&c.)

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George the Third, (&c.) To the reverend father in God — by divine permission, lord bishop of — greeting: Whereas by our writ we lately commanded you, that of the ecclesiastical goods of *C. D.* clerk, in your diocese, you should cause to be made a certain debt of — which *A. B.* lately in our court before us, (or in C. P. "before our justices," or in the Exchequer, "before the barons of our Exchequer") at *Westminster*, recovered against him, and also — which in our said court before us at *Westminster* aforesaid, (or, in the Common Pleas or Exchequer, "in our same court,") were adjudged to the said *A. B.* for his damages which he had suffered, as well on occasion of the detention of the said debt, as for his costs and charges by him about his suit in that behalf expended; (or, in the Common Pleas or Exchequer, "for his damages, &c. omitting the costs;") whereof, (&c.) and that you should have that money before, (&c.) or, (&c.) to be rendered to the said *A. B.* for his debt and damages aforesaid, or, in the Exchequer, "to be then and there paid," &c.): And whereupon our sheriff of — had then

(§ 68.)

Testatum fieri facies for the record, de bonis ecclesiasticis.

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then lately returned to ~~us~~ (or "to our said justices, or barons,") at *Westminster* aforesaid, that the said *C. D.* had no goods or chattels, nor any lay fee in his bailiwick, whereof he could cause to be made the debt and damages aforesaid, or any part thereof; and that the said *C. D.* was a beneficed clerk, to wit, rector of the rectory (or "vicar of the vicarage") and parish church of — in the said sheriff's county, and within your diocese. And you at that day returned to us, (or "to our said justices, or barons") at *Westminster* aforesaid, that by virtue of the said writ to you directed, you had caused to be made of the ecclesiastical goods of the said *C. D.* in your diocese, — *l.* parcel of the debt and damages aforesaid; and that the said *C. D.* had no ecclesiastical goods in your said diocese, whereof the residue of the debt and damages aforesaid, or any part thereof, could be made: Therefore we command you, that of the ecclesiastical goods of the said *C. D.* in your diocese, you cause to be made — *l.* residue of the debt and damages aforesaid; and have that money, &c. (as before, p. 405. in K. B. p. 406. in C. P. or p. 407. in the Exchequer,) to be rendered to the said *A. B.* for the residue of his debt and damages aforesaid; (or in the Exchequer, "to be then and there paid," &c.); and have there then (or by *original*, in K. B. or C. P. or in the Exchequer, "have there") this writ. Witness, (&c.)

(§ 69.)
Fieri facias to
the archbishop,
de bonis ecclesi-
asticis, during
the vacancy of
a bishop's see.

"George the Third, (&c.) To the right reverend father in God — by divine providence, archbishop of *Canterbury*, primate of all *England* and metropolitan; greeting: We command you, that of the ecclesiastical goods of *C. D.* clerk, in the diocese of — which is within the province of *Canterbury*, as ordinary of that church, the episcopal see of — now being vacant, you cause to be made, &c. (as in the last.)

(§ 70)
Sequestration.

— by divine permission, Bishop of — To our well-beloved in Christ, *E. F.* — greeting: Whereas we have with all due reverence, lately received his majesty's writ hereafter set forth, issuing out of his said majesty's court of King's Bench, (or Common Pleas, or Exchequer,) in the words following, to wit: George the Third, &c. copy the *fieri facias de bonis ecclesiasticis* to — and then proceed as follows: On which said writ, there was and is a certain

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certain indorsement in writing, directing us to levy — and the yearly payment of — besides all expences of sequestration and levy: We therefore, proceeding by virtue of and in obedience to the said writ, and inasmuch as in us lies duly executing the same, have sequestered all and singular the tithes, fruits, profits, oblations, obventions, and all other ecclesiastical rights and emoluments, of and belonging to the rectory (or "vicarage") and parish church of — in the county of — and diocese of —, of which the said *C. D.* mentioned in the said writ, is the present rector (or "vicar"), and by these presents do sequester the same, and give and grant unto you the said *E. F.* full power and authority to sequester, collect, levy, gather and receive all and singular the tithes, fruits, profits, oblations, obventions, and all other ecclesiastical rights and emoluments, of and belonging to the rectory (or "vicarage") and parish church of — aforesaid, and the same to sell and dispose of, and the money arising therefrom to apply to and for the due payment of the debt and costs in the said writ mentioned, subject to the said indorsement on the said writ, and also subject to a decree made and interposed by us, on the — day of — in the year of our Lord 18—, in a certain cause or business depending before us in judgment against the said *C. D.* that the said fruits, profits and emoluments whatsoever of the said rectory (or "vicarage") and parish church of — should be sequestered for and during the space of three years, to the end that the said parish church and cure of souls within the same might be duly supplied with the performance of divine service, and that the parsonage-house, together with the other buildings and fences on the premises, might be put and kept in substantial repair, and that all tithes and impositions incumbent on the said rectory (or "vicarage") might be discharged, and subject also to the execution of the said decree; and also to publish or cause to be published this our present sequestration, in the parish church of — aforesaid, during the celebration of divine service therein, and in such fit terms, and in such fit place, as to you shall seem most proper and expedient: hereby requiring you to take care and provide, that during this our present sequestration, the cure of souls within the said parish church — be well, duly and canonically supplied with the performance of divine service, by some fit and able minister,

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minister; to be approved of or nominated by us or our successors, if occasion shall require, and that the said parsonage-house, together with the other buildings and fences on the premises, may be repaired, and kept and continued in substantial repair, and all tithes, subsidies, procurations, synodals, and all other impositions, both ordinary and extraordinary whatsoever, incumbent on and payable out of the said rectory (or "vicarage"), be well and duly satisfied, answered and paid, during the continuance of this our present sequestration: and lastly, that you make and render before us, or our vicar-general and official principal, or other competent judge in this behalf, a true just and faithful account of and upon your receipts and disbursements, in your office of sequestrator, when and at such time or times as you shall be thereunto lawfully required. In witness whereof, we have caused the seal of office of the worshipful — doctor of laws, our vicar-general and official principal, which we use in this behalf, to be affixed to these presents. Dated at —, the — day of — in the year of our Lord 18—, and in the — year of our translation.

(§ 71)
Fieri facias
against an ex-
ecutor or ad-
ministrator,
ex bonis propriis,
after a return
of *de solavit*.

George the Third, (Nc.) To the sheriff of — greeting: Whereas we lately commanded you, that of the goods and chattels which were of *E. F.* deceased at the time of his death, in the hands of *C. D.* executor of the last will and testament of the said *E. F.* (or "administrator of all and singular the goods chattels and credits which were of the said *E. F.* at the time of his death, who died intestate,") to be administered, in your bailiwick, you should cause to be made, &c. (reciting the *feri facias de bonis testatoris*, &c.) And you at that day returned to us, (or in C. P. "to our said justices," or in the Exchequer, "to the barons of our said Exchequer,") at Westminster aforesaid, that the said *C. D.* had no goods or chattels, which were of the said *E. F.* &c. (reciting the sheriff's return). Therefore we command you, that of the proper goods and chattels of the said *C. D.* in your bailiwick, you cause to be made the said — l.; and have that money, &c. (as before, p. 405. in K. B. p. 406. in C. P. or p. 407. in the Exchequer,) to be rendered to the said *B.* for his damages (or "debt and damages") aforesaid, in the Exchequer,

chequer, "to be then and there paid," &c.); and have there then (or by *original*, in K. B. or C. P. or in the Exchequer, "have there") this writ. Witness, (&c.) :

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George the Third, (&c.) To the sheriff of — greeting : (§ 79.)
Whereas we lately commanded our sheriff of —, that of The like, after a devastavit returned on a testatum fieri facias.
the goods and chattels, &c. (reciting the first writ of *fieri facias, de bonis testatoris*, &c.) And our said sheriff of — at that day returned to us, (or in C. P. "to our said justices," or in the Exchequer, "to the barons of our said Exchequer,") at Westminster aforesaid, that the said C. D. had no goods or chattels, &c. (reciting the sheriff's return of *nulla bona*, for which *vide ante*, p. 423.) Whereupon, on behalf of the said A. B. it was sufficiently testified in our said court before us, (omitting "before us," in the Common Pleas or Exchequer,) that the said C. D. had sufficient goods and chattels, which were of the said E. F., at the time of his death, in the hands of him the said C. D. to be administered, in your bailiwick, whereof you might cause to be made the damages (or "debt and damages") aforesaid ; and we therefore commanded you, that of the goods and chattels, &c. (reciting the *testatum fieri facias, de bonis testatoris*, &c.) And you at that day returned to us, (or "to our said justices, or barons,") &c. (reciting the return of *devastavit*, for which *vide ante*, p. 423.) Therefore we command you, that of the proper goods and chattels of the said C. D. in your bailiwick, you cause to be made the damages (or "debt and damages") aforesaid ; and have that money, &c. (as in the last.)

George the Third, (&c.) To the sheriff of — greeting : (§ 73.)
Whereas by our writ we lately commanded you, that of the Venditioni exponas.
goods and chattels, &c. (here recite the *fieri facias* to the end) : And you at that day returned to us, (or in C. P. "to our said justices," or in the Exchequer, "to the barons of our said Exchequer,") at Westminster aforesaid, that by virtue of the said writ to you directed, you had taken goods and chattels of the said C. D. to the value of the damages (or "debt and damages") aforesaid ; which said goods and chattels remained in your hands unsold, for want of buyers : Therefore we being desirous

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desirous that the said *A. B.* should be satisfied his damages (or "debt and damages") aforesaid, command you, that you sell, or cause to be sold, the goods and chattels of the said *C. D.* by you in form aforesaid taken, and every part thereof, for the best price that can be got for the same, and at least for the damages (or "debt and damages") aforesaid : And have the money arising from such sale, before us, (or "before our said justices, or barons) at *Westminster*, on, (&c.) to be rendered to the said *A. B.* for his damages (or "debt and damages") aforesaid ; (or, in the Exchequer, "to be then and there paid," &c.) ; and have there then (or by *original*, in K. B. or C. P. or in the Exchequer, "have there") this writ. Witness, (&c.)

(s. 74.)
The like, for
part, and *fiens*
foras for the
residue.

George the Third, (&c.) To the sheriff of — greeting :
Whereas by our writ we lately commanded you, that of the goods and chattels, &c. (reciting the *seri facias*) : And you at that day returned to us, (or in C. P. "to our said justices," or in the Exchequer, "to the barons of our said Exchequer,") at *Westminster* aforesaid, that by virtue of the said writ to you directed, you had taken goods and chattels of the said *C. D.* to the value of — *l.* parcel of the damages (or "debt and damages") aforesaid : which said goods and chattels remained in your hands unsold, for want of buyers ; and therefore that you could not have that money before us, (or "before our said justices, or barons") at *Westminster*, at the day aforesaid ; and that the said *C. D.* had no other or more goods or chattels in your bailiwick, whereof you could cause to be made the residue of the damages (or "debt and damages") aforesaid, or any part thereof, as by the said writ you were commanded : Therefore we command you, that you expose to sale the goods and chattels of the said *C. D.* by you in form aforesaid taken ; and have the said — *l.* parcel, &c. before us, (or in C. P. "before our said justices," or in the Exchequer, "before the barons of our said Exchequer,") at *Westminster* aforesaid, on, (&c.) to be rendered to the said *A. B.* for so-much of the damages (or "debt and damages") aforesaid, (or, in the Exchequer, "to be then and there paid," &c.) : We also command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made — *l.* residue of the damages (or "debt and damages") aforesaid ; and have that money, together with the said — *l.* parcel, &c. before

before us, (or "before our said justices, or barons,") at the day and place aforesaid, to be rendered to the said *A. B.* for his damages (or "debt and damages") aforesaid; (or, in the Exchequer, "to be then and there paid," &c.) ; and have there then (or by *original*, in *K. B.* or *C. P.* or in the Exchequer, "have there") this writ. *Witness*, &c.)

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The sheriff was commanded, that of the goods and chattels of *C. D.* in his bailiwick, he should cause to be made ——— and that he should have that money before the lord the king at *Westminster*, (or in *C. P.* "before the justices here,") on ———, to be rendered to the said *A. B.* for his damages, &c. (as in a *feri facias*) : At which day, before the said lord the king at *Westminster*, comes (or in *C. P.* "At which day comes here,") the said *A. B.* in his proper person; and the sheriff returns, that by virtue of the writ of the said lord the king to him thereupon directed, he hath taken goods and chattels of the said *C. D.* to the value of ———, which remain in the hands of the said sheriff unsold; for want of buyers; wherefore he cannot have the said money before the said lord the king at *Westminster*, (or in *C. P.* "before the justices here,") on the day aforesaid; and that the said *C. D.* hath no other goods or chattels, in the bailiwick of the said sheriff, whereof he can cause to be made any more of the money in the said writ contained: Therefore the sheriff is commanded, that he expose to sale the goods and chattels aforesaid, by him in form aforesaid taken; and that he have the money arising from such sale, before the said lord the king at *Westminster*, (or in *C. P.* "before the justices here,") on, (&c.) to be rendered to the said *A. B.* (&c.) The said sheriff is also commanded, that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made ——— residue of the damages (or "debt and damages") aforesaid; and that he have that money before the said lord the king at *Westminster*, (or in *C. P.* "before the justices here,") on the day aforesaid, to be rendered to the said *A. B.* for his damages aforesaid; the same day is given to the said *A. B.* there, (or in *C. P.* "here," &c.)

(§ 75.)
Entry of conditioni
exponas
and return, and
award of *feri
facias* for the
residue, in
K. B. or *C. P.*

George, &c. (&c.) To the sheriff of ——— greeting:
We command you, that you distrain *E. F.* late sheriff of your county,

(§ 76.)
*Distringas nu-
per viccomitem,
to expose to*

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sale goods taken on a *fiert facies* in *assumpsit*, in K. B.

county, by all his lands and chattels in your bailiwick, so that neither he, nor any one by him, do lay hands on the same, until you have another command from us in that behalf, and that you answer to us for the issues of the same; so that he expose to sale those goods and chattels which were of *C. D.* in your bailiwick, to the value of —*l.* which lately in our court before us, were adjudged to *A. B.* for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record; and which goods and chattels he lately took by virtue of our writ, and which remain in his hands unsold for want of buyers, as the said late sheriff returned to us at *Westminster*, at the return-day of the writ aforesaid; and have that money before us at *Westminster*, on — next after —, (or by *original*, "on — wheresoever," &c.) to be tendered to the said *A. B.* for his damages aforesaid; and have there then (or by *original*, "have there") this writ. Witness, (&c.)

(§ 77)
The like, for part, in debt, and *fiert facies* for the residue, in K. B.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you distrain *E. F. &c.* (as in the last writ, to the words "issues of the same," and then as follows:) so that he expose to sale those goods and chattels which were of *C. D.* in your bailiwick, to the value of —*l.* parcel of a certain debt of —*l.* which *A. B.* lately in our court before us at *Westminster*, recovered against him, and also —*l.* which in our said court were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record; and which goods and chattels he lately took by virtue of our writ, and which remain in his hands unsold for want of buyers, as the said late sheriff returned to us at *Westminster*, on — last past; and have that money before us at *Westminster*, on — next after —, (or by *original*, "on — wheresoever," &c.) to be rendered to the said *A. B.* for so much of his debt and damages aforesaid: We also command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause

to be made — *l.* residue of the debt and damages aforesaid; and have that money before us at *Westminster*, (omitting “at *Westminster*,” by *original*;) on the day last aforesaid, to be rendered to the said *A. B.* for the residue of his debt and damages aforesaid; and have there then (or by *original*, “have there”) this writ. Witness, (Kc.)

George the Third, (Kc.) To the sheriff of — greeting: (S 78)
Eleg., in K B
 Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, (or by *original*, “by our writ,”) and by the judgment of the same court, recovered against *C. D.* — *l.* which in our said court before us were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* (or if in debt, “recovered against the said *C. D.* a certain debt of — *l.* and also — which in our same court were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt,”) as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: And afterwards, the said *A. B.* came into our court before us, and according to the form of the statute in such case made and provided, chose to be delivered to him, all the goods and chattels of the said *C. D.* except the oxen and beasts of his plough, and also a moiety of all the lands and tenements of the said *C. D.* in your bailiwick; to hold to him the said goods and chattels, as his proper goods and chattels, and to hold a moiety of the lands and tenements aforesaid, to him and his assigns, as his freehold, according to the form of the said statute, until the damages (or “debt and damages”) aforesaid should be thereof fully levied: Therefore we command you, that without delay, you cause to be delivered to the said *A. B.* by a reasonable price and extent, all the goods and chattels of the said *C. D.* in your bailiwick, except the oxen and beasts of his plough, and also a moiety of all the lands and tenements in your bailiwick, unto the said *C. D.* or any person or persons in trust for him, on the — day of — in the — year of

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our reign, (the day of signing judgment,) on which day the judgment aforesaid was given, or ever afterwards, was seised; to hold the said goods and chattels to the said *A. B.* as his proper goods and chattels, and also to hold the said moiety of the lands and tenements aforesaid, to him and his assigns, as his freehold, according to the form of the statute aforesaid, until the damages (or "debt and damages") aforesaid shall be thereof fully levied; and in what manner you shall have executed this our writ, make appear to us at *Westminster*, on — next after —, (or by original, "on — wheresoever we shall then be in *England*,") under your seal, and the seals of those by whose path you shall make the said extent and appraisement; and have there then (or by original, "have there") this writ. Witness *Edward Lord Ellenborough*, (&c.)

(§ 79.)
The like, in
C. P.

George the Third, (&c.) To the sheriff of — greeting:
Whereas *A. B.* lately in our court before our justices at *Westminster*, by the consideration and judgment of the same court, recovered against *C. D.* — l. which in our said court were adjudged, &c. (as in the last, omitting the costs); whereof the said *C. D.* is convicted: And afterwards the said *A. B.* came into our court, before our said justices, at *Westminster* aforesaid; and according to the form of the statute, (&c.) chose to be delivered to him, &c. (as in the last, to the return of the writ, which is as follows:) And in what manner you shall have executed this our writ, make appear to our justices at *Westminster*, on —; and have there this writ. Witness *Sir Vicary Gibbs knight*, (&c.)

(§ 80.)
The like, in the
Exchequer.

George the Third, (&c.) To the sheriff of — greeting:
Whereas *A. B.* our debtor, in our court before the barons of our Exchequer at *Westminster*, in this present — term, (or, "heretofore, that is to say, in the term of — last past, or in the — year of our reign,") by the consideration and judgment of the same court, recovered against *C. D.* — l. which in our said court were adjudged, &c. (as in the last but one, omitting the costs); whereof the said *C. D.* is convicted, as by inspecting the rolls of our said Exchequer, appears to us: And afterwards, the said *A. B.* came into our court, before the barons of our said Exchequer, at *Westminster* aforesaid; and according to the form of the statute, (&c.) chose to be delivered

delivered to him, &c. (as in the last but one, to the return of the writ, which is as follows); And in what manner you shall have executed this our writ, make appear to the barons of our said Exchequer at *Westminster*, on — next coming; and have there this writ. Witness Sir *Alexander Thomson* knight, (&c.)

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— to wit. An inquisition indented, taken at — in the county of —, the — day of — in the — year of ^(§ 81) the reign of our sovereign lord *George* the third, by the grace of God of the united kingdom of *Great Britain* and *Ireland*, king, defender of the faith, and in the year of our Lord, 18—, before me — sheriff of the county aforesaid, by virtue of his majesty's writ to me directed, and to this inquisition annexed, by the oath of *E. F.* (&c.) twelve honest and lawful men of the county aforesaid, who being sworn and charged, say upon their oath, that *C. D.* named in the said writ to this inquisition annexed, on the day of taking this inquisition, was possessed of the goods and chattels following, to wit, — of the price of —, &c. (here set out the goods, and the price or value of them,) as of his own proper goods and chattels; which said goods and chattels, I the said sheriff have caused to be delivered to the said *A. B.* to hold to him the said goods and chattels, as his own proper goods and chattels, in part satisfaction of his damages (or "debt and damages") in the said writ mentioned: And the jurors aforesaid upon their oath further say, that the said *C. D.* on the — day of — in the — year of his said majesty's reign, being the day on which the judgment in the said writ specified was given, was seized in his demesne as of fee of and in one messuage, and one close of pasture thereto adjoining, with the appurtenances, containing by estimation — acres more or less, situate being and being in the parish of — in the county aforesaid, and now at late in the tenure or occupation of — and being of the clear yearly value of —/ in all taxes, hereditaments; and also of and in one other close, &c. (if the premises are in mortgage, say) which said premises are subject to a mortgage made thereof by the said *C. D.* to one *A. B.* of —, by indenture bearing date (&c.) for the term of — years, at the yearly rent of one pepper-corn, subject to redemption, on payment

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payment of — *l.* and interest at *5l. per cent. per annum*, at a day since past: And the jurors aforesaid upon their oath aforesaid farther say, that the said messuage, &c. (describing a moiety of the premises,) subject as aforesaid, are a true and equal moiety of all and singular the lands and tenements of the said *C. D.* in the said writ named, or any person or persons in trust for him, in my county: which said moiety I the said sheriff, on the aforesaid day of taking this inquisition, have caused to be delivered to the said *A. B.* in the said writ named, subject as aforesaid, by a reasonable price and extent; to hold to him and his assigns, as his free tenement, according to the form of the statute in such case made and provided, until he shall have thereof fully levied the said damages (or “debt and damages”), in the said writ specified, as by the said writ it is commanded: And lastly, the jurors aforesaid upon their oath aforesaid say, that the said *C. D.* in the said writ named, on the aforesaid day of taking this inquisition, had not any other or more goods or chattels in my bailiwick; nor had he, or any person or persons in trust for him, on the day the judgment aforesaid was given, or at any time afterwards, any other or more lands or tenements in the county aforesaid, to the knowledge of the said jurors. In witness whereof, as well I the said sheriff, as the jurors aforesaid, have set our seals to this inquisition, on the day and year, and at the place aforesaid.

(§ 82)
Award of *elegit*
on the pill.

Afterwards, that is to say, on — next after — then next following, before the said lord the King at *Westminster*, comes (or, in the Common Pleas or Exchequer, “Afterwards, &c. comes here,”) the said *A. B.* by his attorney aforesaid, and according to the form of the statute in such case made and provided, chooses to be delivered to him, all the goods and chattels of the said *C. D.* except the oxen and beasts of his plough, and also a moiety of all the lands and tenements of the said *C. D.* to hold to him the goods and chattels aforesaid, as his proper goods and chattels, and to hold a moiety of the lands and tenements aforesaid, to him and his assigns, as his freehold, according to the form of the statute aforesaid, until the damages (or “debt and damages”) aforesaid shall be thereof fully levied; and he prays the writ of the said lord the king thereupon, to be directed to the sheriff of —, and it is granted,

granted to him, &c. returnable before the said lord the king at Westminster, (or, in the Common Pleas or Exchequer, "returnable here,") on, (&c.); the same day is given to the said A. B. there, (or, in the Common Pleas or Exchequer "here,") &c. At which day, before the said lord the king at Westminster, comes (or, in the Common Pleas or Exchequer, "At which day comes here,") the said A. B. by his attorney aforesaid; and the sheriff, to wit, — Esquire, sheriff of the county aforesaid, now here returns the writ aforesaid, to him in form aforesaid directed, in all things served and executed, together with a certain inquisition to the said writ annexed, taken before the said sheriff in the premises, by virtue of the said writ; which said inquisition follows in these words, that is to say: — to wit. An inquisition, &c. (here copy the inquisition.)

George the Third, (&c.) To the sheriff of — greeting: (§ 83)
Whereas A. B. lately in our court, &c. (reciting the first *Re elegit.*
writ:) And you on that day returned to us, (or, in C. P. "to our said justices," or in the Exchequer, "to the barons of our said Exchequer") at Westminster, a certain inquisition indented, taken before you, at —, on the — day of — last past, by the oath, (&c.) whereby it is found, &c. (reciting the return:) And because we are now given to understand, in our said court before us, (omitting "before us," in the Common Pleas or Exchequer,) that the said C. D. at the time of giving the judgment aforesaid, and afterwards had, and still hath, divers other lands and tenements in your county, besides those which are mentioned in the return above set forth, one moiety of which said other lands and tenements the said A. B. ought also to have in execution, for the more speedy recovery of his damages (or debt and damages) aforesaid; wherefore the said A. B. hath humbly besought us, that he may so have them, according to due course of law: Therefore we command you, that you cause to be delivered to the said A. B. in the presence of the said C. D. to be warned on that occasion if he will attend, a moiety of all the other lands and tenements of the said C. D. in your bailiwick, as well as of those whereof a moiety is before extended in execution, for the payment of the damages (or debt and damages) aforesaid; to hold to the said A. B. and his assigns, as his freehold, according to the

form of the statute aforesaid, until the damages (or debt and damages) aforesaid shall be thereof fully levied: And in what manner you shall have executed this our writ, &c. (as before, p. 405. in K. B. p. 406. in C. P. or p. 407. in the Exchequer.)

(§ 84)
*Elegit for the
residue, after a
fieri facias.*

George the Third, (&c.) To the sheriff of — greeting:
Whereas *A. B.* lately in our court, (&c.) recovered, &c. (as in a common *elegit*, to the words, “whereof,” &c.); and whereupon by our writ we lately commanded you, that of the goods and chattels, &c. (reciting the *fieri facias*.) And you at that day returned, &c. (reciting the return:) And afterwards, the said *A. B.* came into our court before us, (or in C. P. “before our justices,” or in the Exchequer, “before the barons of our Exchequer,”) at *Westminster* aforesaid, and chose to be delivered to him, all the goods and chattels of the said *C. D.* in your bailiwick, except the oxen and beasts of his plough, and also a moiety of all the lands and tenements of the said *C. D.* in your bailiwick, by a reasonable price and extent; to hold to him and his assigns, according to the form of the statute in such case made and provided, until —*l.* residue of the damages (or “debt and damages”) aforesaid, should be thereof fully levied: Therefore we command you, &c. (as in a common *elegit*, to the words “according to the form of the statute aforesaid,”) until the said —*l.* residue of the damages (or “debt and damages”) aforesaid, shall be thereof fully levied: And in what manner you shall have executed this our writ, &c. (as before, p. 405. in K. B. p. 406. in C. P. or p. 407. in the Exchequer.)

(§ 85)
*The like, for
an administra-
tor cum testa-
mento annexo,
against an heir
and tertenant,
on a judgment
in debt against
several de-
fendants, re-
vived by scire
facias, in K. B.*

George the Third, (&c.) To the sheriff of — greeting:
Whereas *A. B.* deceased, lately in our court before us at *Westminster*, by bill without our writ, and by the consideration and judgment of the same court, recovered against *C. D.* and *E. F.* as well a certain debt of —*l.* as also —*s.* which in our same court were adjudged to the said *A. B.* for his damages which he had sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* and *E. F.* were convicted, as appears to us of record: And whereas for the levying of the debt and damages aforesaid, we lately

lately commanded our late sheriff of —, that he should not omit by reason of any liberty in his county, but enter the same, and of the goods and chattels of the said *C. D.* and *E. F.* in his bailiwick, he should cause to be levied the debt and damages aforesaid; and that he should have the said monies before us at *Westminster*; on — next after —, to be rendered to the said *A. B.* for his debt and damages aforesaid: And our said late sheriff at that day returned to us at *Westminster* aforesaid, that of the goods and chattels of the said *C. D.* and *E. F.* in his bailiwick, he had caused to be levied the sum of — *l.* parcel of the debt and damages aforesaid; and that they had no other goods and chattels in his bailiwick, whercof he could cause to be made the residue of the debt and damages aforesaid, or any part thereof: And although judgment be thereupon given, yet execution for — *l.* being the residue of the debt and damages aforesaid, still remains to be made; and as well the said *A. B.* as the said *C. D.* and *E. F.* after the rendering of the judgment aforesaid, respectively died, as by the information of *G. H.* gentleman, administrator of all and singular the goods chattels and credits which were of the said *A. B.* at the time of his death, with the will of the said *A. B.* annexed, we were given to understand; wherefore the said *G. H.* administrator as aforesaid, humbly besought us to provide him a proper remedy in this behalf: And we being willing that what was just in that behalf should be done, by our writ lately commanded our late sheriff of —, that by honest and lawful men of his bailiwick, he should make known to the heir and tenants of all and singular the lands and tenements in his bailiwick, whereof the said *C. D.* on the — day of — in the — year of our reign, on which day the aforesaid judgment was given, or ever afterwards, was seised in fee-simple, that they should be before us at *Westminster*, on — next after —, to shew if they had or could say any thing for themselves, why the said — residue &c. ought not to be made of those lands and tenements, and rendered to the said *G. H.* as administrator as aforesaid, for the residue of the debt and damages aforesaid; according to the form and effect of the said recovery, if it should seem expedient for him so to do; and also that by honest and lawful men of his bailiwick, in like manner he should make known to the heir and tenants of all and singular the lands and tenements in his bailiwick,

CHAP.
XXXIX.

whereof the said *E. F.* on the said — day of — in the — year aforesaid, on which day the aforesaid judgment was given, or ever afterwards, was seised in fee-simple, that they should be before us at *Westminster*, on the said — next after —, to shew if they had or could say any thing for themselves, why the said — *l.* residue, &c. ought not to be made of those last-mentioned lands and tenements, and rendered to the said *G. II.* as administrator as aforesaid, for the residue of the debt and damages aforesaid, according to the form and effect of the said recovery, if it should seem expedient for him so to do; and further to do and receive what our said court before us should then and there consider of the said several and respective heirs and tenants, in this behalf; and that the said late sheriff should have then there the names of those by whom he should so make known to them, and that writ; And our said late sheriff at that day certified and returned to us at *Westminster* aforesaid, that by virtue of the said writ to him directed, he had by — and — good and lawful men of his bailiwick, given notice to *I. K.* son and heir of the said *C. D.* in the said writ named, and tenant of the several messuages, cottages, lands and tenements herein-after particularly mentioned, to wit, two messuages, (&c.) with the appurtenances, in the parish of — in his bailiwick, in the possession and occupation of —, which were the messuages, cottages, lands and tenements of the said *C. D.* in his life-time, on the day of giving the judgment in the said writ mentioned, of which the said *C. D.* then and afterwards was seised in fee-simple, to be and appear before us at *Westminster*, at the day and place in the said writ specified, to shew in manner therein also mentioned: And our said late sheriff further certified, that there were no other tenants, nor was there any other tenant, of any other lands or tenements in his said bailiwick, whereof the said *C. D.* on the day of giving the said judgment, or ever afterwards, was seised in fee-simple, to whom he could make known, as by the said writ he was commanded: And our said late sheriff further certified, that there was no heir, nor were there any tenants, nor was there any tenant, of any lands or tenements in his said bailiwick, whereof the said *E. F.* in the said writ named, on the day of giving the said judgment, or ever afterwards, was seised in fee-simple, to whom he could make known, as by the

the

the said writ he was also commanded : And such proceedings were thereupon had, in our said court before us at *Westminster*, that it was afterwards considered in our same court, that the said *G. H.* should have his execution against the said *I. K.* of the said — *l.* residue of the debt and damages aforesaid, to be levied of the lands and tenements, whereof the said *C. D.* was returned tenant as aforesaid, according to the force form and effect of the said recovery, by the default of the said *I. K.* &c. And afterwards, the said *G. H.* came into our said court before us at *Westminster* aforesaid, and according to the form of the statute in such case made and provided, chose to be delivered to him, one moiety of the lands and tenements last aforesaid ; to hold to him and his assigns, as his freehold, according to the form of the statute aforesaid, until the said — *l.* residue of the debt and damages aforesaid should be thereof fully levied : Therefore we command you, that without delay you cause to be delivered to the said *G. H.* by a reasonable price and extent, one moiety of the lands and tenements aforesaid, with the appurtenances ; to hold to him and his assigns, as his freehold, according to the form of the statute aforesaid, until the said — *l.* residue of the debt and damages aforesaid shall be thereof fully levied : And in what manner you shall have executed this our writ, make appear to us at *Westminster*, on — next after —, under your seal, and the seals of those by whose oath you shall make the said extent and appraisement ; and have there then this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of — greeting :
Whereas by judgment of the barons of our Exchequer at *Westminster*, we lately recovered against *C. D.* the sum of — *l.* of good and lawful money of Great Britain, for having knowingly received into his custody and possession, divers large quantities of British candles, after the same had been removed from the respective places where the same were made and manufactured, and where the same ought to have been charged with the duties payable in respect thereof, before either the said duties to which the same were liable had been charged, or such candles had been lawfully condemned as forfeited ; and also the further sum of — *l.* for making use of a certain

(§ 86.)
Writ of extent in chief, for the king's debt, on a judgment of the Exchequer.

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certain place for making candles, without first making or having made, with the proper officer or officers appointed for that purpose, at the next office of excise within the compass or limits whereof such place was situated, a true and particular entry in writing of the said place; amounting together to the sum of —l. which said sum of —l. still remains due and unpaid to us, as by the records of our Exchequer appears: Now we being willing to be satisfied the said sum of —l. with all the speed we can, as is just, do command you, that you omit not by reason of any liberty, but enter the same, and take the said *C. D.* by his body, wherever he shall be found in your bailiwick, and keep him safely and securely in prison, till we shall be fully satisfied our said debt; and that as well on the oaths of good and lawful men of your bailiwick, as by the testimony on oath of any other good and lawful men, by whom the truth may be the better known, as by all other lawful means, you diligently inquire what lands and tenements, and of what yearly values, the said *C. D.* now hath in your bailiwick, and what goods and chattels, and of what sorts and prices, and what debts, credits, specialties and sums of money, the said *C. D.* or any person or persons to his use, or in trust for him, now hath or have in your said bailiwick; and that all and singular the said goods and chattels, lands and tenements, debts, credits, specialties and sums of money, in whose hands soever the same now are, you diligently appraise and extend, on the oaths of the said good and lawful men, and do take and seize the same into our hands, there to remain until we shall be fully satisfied the said debt, according to the form of the statute made for the recovery of such our debts. And least this our command should not be fully executed, we further command and empower you by these presents, to summon before you such persons as you shall think proper, and carefully examine them in the premises; and that you distinctly and openly make appeal to the barons of our Exchequer at Westminster, on the — day of — next, in what manner you shall have executed this our command; and that you then have there this writ: Provided that what goods and chattels you shall seize into our hands, by virtue hereof, you do not sell or cause to be sold, until we shall otherwise command you. Witness Sir *Alexander Thomson* knight, the — day of — in the — year of our reign.

By

By the remembrance rolls; by the said act of parliament, made in the thirty third year of the reign of the late king Henry the eighth; by warrant of our chief-baron; and by the barons.

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Steele.

George the Third, (&c.) To the sheriff of — greeting: (§ 87.)
Whereas C. D. of — and E. F. of — by their writing The like, for a bond debt.
obligatory, sealed with their seals, bearing date, (&c.) are jointly and severally bound to us, in the sum of —l. of good and lawful money of Great Britain, payable at a certain day now past; and which sum they have not, nor hath either of them, as yet paid or caused to be paid to us, as it is said: And we being desirous to be satisfied the said sum of —l. now due to us, with all the speed we can, as is just, command you, &c. (as in the last writ, to the *teste*, concluding as follows:) By the writing obligatory aforesaid; by the aforesaid act of parliament, (&c.) by warrant; and by the barons.

Steele.

George the Third, (&c.) To our beloved E. F. and G. H. (§ 88.)
gentlemen, greeting: Whereas we are informed, that C. D. of Commission, to find a simple-contract debt due to the king, for malt duties, or money received for land-tax, &c.
— maltster is indebted to us in divers sums of money, for the duties on malt, by him the said C. D. made; (or “in divers sums of money, arising out of our duties upon land-tax and houses, within the county of —;”) no part whereof has been paid by him to our use, (or “which sums of money he hath not as yet paid or caused to be paid to us, but hath converted the same to his own use, as it is said”): Know ye therefore, that we, trusting to your fidelity and care, have assigned you, and do hereby give you full power and authority, to inquire, as well on the oaths of good and lawful men of the county of —, by whom the truth may be the better known, as by the testimony on oath of any other credible persons, whether the said C. D. be now indebted to us, in any and what sum of money, for the duties aforesaid, (or “in any and what sum of money, arising out of our duties aforesaid”); and therefore we command you, that at such day and place as you shall for that purpose appoint, you diligently attend in and about the premises with effect, and duly take an inquisition thereof, on the oaths of such good and lawful men; and have the same before

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before the barons of our Exchequer at *Westminster*, on the — day of — instant (or next), to be then delivered under your seals, with this commission: We have also commanded our sheriff of —, that he cause to come before you, at such day and place as you shall appoint, twelve good and lawful men of his bailiwick, by whom the truth may be the better known; and we empower you to summon before you, such persons as you shall think proper, and carefully examine them in the premises, on their corporal oaths: And we command all mayors, sheriff, bailiffs, and all other our officers and subjects, that they aid and assist you in the execution thereof, at their perils: In witness whereof, we have caused these our letters to be made patent. Witness Sir *Alexander Thomson* knight, at *Westminster*, the — day of — in the — year of our reign. By warrant indorsed; and by the barons.

Steele.

(§ 89.)
Inquisition
thereon.

— (to wit.) An inquisition indented, taken at the house known by the name of —, at — in the said county, the — day of — in the — year of the reign of our sovereign lord *George* the third, (&c.) before *E. F.* and *G. H.* gentlemen, commissioners named in his majesty's commission which is hereunto annexed, on the oath of *J. K.* (&c.) good and lawful men of the said county of —, who being sworn and charged to inquire of and concerning the premises, on their oath say, that *C. D.* of — maltster, in the said commission also named, is on the day of taking this inquisition, justly and truly indebted to his majesty, in the sum of —*l.* charged on him the said *C. D.* between the — day of — 18— and the — day of — 18—, for the duties on malt, by him the said *C. D.* made at his two malt-houses, one thereof situate at — and the other thereof situate at —, (or "was on the day of taking, &c. indebted to our said lord the king, in the sum of —*l.* of lawful money of *Great Britain*, for so much of his majesty's money, arising by the land-tax and duties on houses, within the county of —, by the said *C. D.* heretofore had and received to his majesty's use; and that the said sum of —*l.* and every part thereof, still remains due and unpaid.") In witness whereof, as well the said commissioners, as the jurors aforesaid, to this inquisition

sition have set their seals, the day and year, and at the place first above-written.

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E. F. (&c.)

In the Exchequer.

A. B. of — maketh oath and saith, that *C. D.* of — in the county of — maltster, is justly and truly indebted to his present majesty, in the sum of —*l.* charged on him the said *C. D.* between the — day of — 18— and the — day of — 18—, for the duties on malt, by him the said *C. D.* made at his two malt-houses, one thereof situate at — and the other thereof situate at —, (or “for money arising by the land-tax,” &c.) And this deponent further saith, that the said *C. D.* is greatly decayed in his credit and circumstances, and hath stopped payment; and that a docket hath been struck against him the said *C. D.* for the purpose of issuing a commission of bankrupt against him: And lastly, this deponent saith, that the said sum of —*l.* is still due and owing, and that no part thereof hath been paid or satisfied; and he verily believes, that the said debt so due as aforesaid from the said *C. D.* is in the utmost danger of being lost, unless a more speedy course than the ordinary method of proceeding be forthwith had to recover the same.

(§ 90.)
Affidavit thereon, for obtaining an immediate extent in chief.

Or thus, after stating the circumstances under which the debt to the crown arose: “And this deponent further saith, that he this deponent did, on the — day of — instant, search the secretary of bankrupts’ office, in *Southampton Buildings, Chancery lane, London*, and did then and there find, that a docket for a commission of bankrupt, was on the — day of — instant, struck against the said *C. D.* by the name and description of, (&c.) at the petition of *E. F.* of, (&c.): And this deponent verily believes, that unless some method more speedy than the ordinary course of proceeding at law, be had against the said *C. D.* the said sum of —*l.* is in danger of being lost.”

Sworn,” (&c.)

A. B.

— 18—. Upon reading this affidavit, and also a commission and inquisition taken thereupon, whereby the above-named *C. D.* is found indebted to his majesty in the sum of —*l.* let a writ or writs of immediate extent issue against the

(§ 91.)
Warrant or writ thereon.

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HAP. the said *C. D.* for the recovery thereof, with the usual
XXXIX. *proviso.*

G. Wood.

(§ 92)
 Writ of immediate extent in chief.

George the Third, (&c.) To the sheriff of — greeting :
 Whereas by an inquisition indented, taken at the house known by the name of, (&c.) at — in the county of — this day, before *E. F.* and *G. H.* gentlemen our commissioners, by virtue of a commission issued out of and under the seal of our court of Exchequer at *Westminster*, to them in that behalf directed, it is found, on the oath of *I. K.* and other good and lawful men of the said county of —, that *C. D.* of — maltster, is indebted to us in the sum of —*l.* charged on him the said *C. D.* between the — day of — 18— and the — day of — 18—, for the duties on malt, by him the said *C. D.* made at his two malt-houses, one thereof situate at — and the other thereof situate at —, (or “for money arising by the land-tax,” &c.) ; which said sum of —*l.* still remains due and unpaid to us, as by the said commission and inquisition taken thereupon, returned and filed in our said Exchequer, more fully appears : Now ~~we~~ being willing to be satisfied the said sum of —*l.* so due to us, with all the speed we can, as is just, do command you, &c. (as before, p. 454. concluding as follows :) By the said commission and inquisition ; by warrant of Mr. Baron *Wood* ; by the said act of parliament, made in the thirty third year of the reign of the late king *Henry* the eighth ; and by the barons.

Steele.

(§ 93)
 Writ of *diem clausi extremum*.

George the Third, (&c.) To the sheriff of — greeting :
 Whereas by an inquisition indented, taken at the house known by the name of the sheriff's office, *Bedford street, Bedford row*, in the county of *Middlesex*, this day, before *E. F.* and *G. H.* gentlemen, our commissioners, by virtue of a commission issued out and under the seal of our court of Exchequer at *Westminster*, to them in that behalf directed, it was found, on the oath of *I. K.* and *L. M.* and others, good and lawful men of the county of *Middlesex*, that *C. D.* in the said commission named, died on the — day of — last ; and that the said *C. D.* was before and at the time of his death, justly indebted to us, in the sum of —*l.* for so much of our money

money before that time and had received by him the said *C. D.* for and on our account, arising from duties of excise, which said sum of ——. *L.* still remains due and unpaid to us, as by the said commission and inquisition, returned and filed as of record in our said court of Exchequer, and there remaining in the custody of our remembrancer, more fully appears. And we being willing to be satisfied the said sum of money, with all the speed we can, as is just, do command you, that you omit not by reason of any liberty, but enter the same, and diligently inquire, on the oaths of good and lawful men of your bailiwick, on what day and year, and where the said *C. D.* died, and what goods and chattels, and of what values, and what debts, credits, specialties and sums of money, the said *C. D.* or any other person or persons for his use, or in trust for him, had in your bailiwick, on the day he died, and to whose hands such goods and chattels, debts, credits, specialties and sums of money came, after the death of the said *C. D.* and in whose hands the same now are; and what lands and tenements, and of what yearly values, the said *C. D.* had in your bailiwick, on the day he died, or at any time since, and who was seised of any lands or tenements in your bailiwick, for his use, or in trust for him, on the day he died, or at any time since, and who hath had and received the rents issues and profits of such lands and tenements, from the death of the said *C. D.* to this time, and who now has or receives the same; and that by the oath of the aforesaid good and lawful men, you cause all and singular such goods and chattels, lands and tenements, debts, credits, specialties and sums of money, in whose hands soever the same now are, to be carefully appraised and extended, and to be taken and seized into our hands, that we may retain them, until we be fully satisfied our said debt, according to the form of the statute made and provided for the recovery of such our debts; and that you safely and securely keep what you shall so seize into our hands, until you receive our further command, so that at our will and pleasure you may be able to answer us the said goods and chattels, and the said debts, credits, specialties and sums of money, or the price or value thereof, and also the issues and profits of the said lands and tenements; and that you make distinctly and plainly appear to the barons of our Exchequer at *Westminster*, on the — day of — next,

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what goods and chattels, and of what values, and what lands and tenements, and of what yearly value, and what debts, credits, specialties and sums of money, you shall have taken and seized into our hands, by virtue hereof, and when and on what day you seized the same into our hands; and that you then have there this writ: And we further command and give you full power by these presents, to summon before you, whomsoever it may be proper to examine in the premises, and to examine them carefully of and concerning the same, that this our command may not remain to be further executed: Provided that what goods and chattels you shall seize into our hands, by virtue hereof, you do not sell or cause to be sold, till we shall otherwise command you. Witness Sir *Alexander Thomson* knight, the — day of — in the — year of our reign. By the said commission and inquisition; by be said act of parliament, made in the thirty third year of the reign of king *Henry* the eighth; by warrant of Mr. Baron *Graham*, and the barons.

Steele.

(§ 94.)
Sheriff's return
thereeto.

The execution of this writ appears by the inquisition annexed.

The answer of — sheriff.

(§ 95.)
Inquisition.

— (to wit.) An inquisition indented, taken at — in the county aforesaid, the — day of — 18—, before me — Esquire, sheriff of the county aforesaid, by virtue of the writ of our sovereign lord the king of *diem clausit extremum* to me directed, and to this inquisition annexed, by the oaths of *I. S.* (§c.) good and lawful men of my bailiwick, who being sworn and charged, say that *C. D.* in the said writ named, died at — in the county of —, on the — day of — 18—; and that one *T. S.* of — aforesaid —, was before and at the time of the death of him the said *C. D.* justly and truly indebted to the said *C. D.* in the sum of —*l.* for so much of his majesty's money, arising from duties of excise, before that time received by the said *T. S.* from, and for and on account of the said *C. D.* he the said *T. S.* knowing the same to be his majesty's money, arising as aforesaid, for which the said *C. D.* was indebted and accountable to his
said

said majesty, and by the said *C. D.* in his life-time permitted to be detained and applied by the said *T. S.* to and for the use of him the said *C. D.* All^e which said sum of —*l.* remains wholly unaccounted for to his said-majesty, and is at the time of taking this inquisition due and unpaid from the said *C. D.* And the jurors aforesaid likewise say upon their oath, that the aforesaid *C. D.* had not at the time he died, or any other person for or to his use, before or since his death, any other or more goods, chattels, debts, credits, specialties or effects, lands or tenements, in my bailiwick, to the knowledge of the said jurors, or either of them, which can be appraised and extended; which said debt of —*l.* I the said sheriff have, on the day of taking this inquisition, seized and taken into the hands of our said lord the king, according to the command of the said writ, and as I am by the said writ commanded. In witness whereof as well I the said sheriff, as the jurors aforesaid, to this inquisition have put our seals, the day year and place above written.

By the same sheriff.

George the Third, (&c.) To the sheriff of — greeting:
Whereas *A. B.* of — and *E. F.* of — by their writing obligatory, sealed with their seals, bearing date, (&c.) are jointly and severally bound to us, in the sum of —*l.* of good and lawful money of *Great Britain*, payable at a certain day now past; which sum they have not, nor hath either of them, as yet paid or caused to be paid to us, as we are informed: And we being willing to be satisfied the said sum of —*l.* now due to us, with all the speed we can, as is just, command you, that you omit not by reason of any liberty, but enter the same, and as well on the oaths of good and lawful men of your bailiwick, or otherwise by the testimony on oath of any other credible persons, by whom the truth may be the better known, as by all other ways means and methods, whereby you may better know or be informed, you diligently inquire what debts, credits, specialties and sums of money the said *A. B.* or any other person or persons to his use, now hath or have in your said bailiwick; and that by the oaths of the aforesaid good and lawful men, you cause all and singular the aforesaid debts, credits, specialties and sums of money, in whose hand soever they now are, to be carefully appraised and extended, and do

(411
Writ of extent
in aid, to find
debts due to
the king's
debtor

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RP.
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take and seize them into our hands, &c. (as before, p. 454. omitting the *proviso*, and concluding as follows:) By the writing obligatory aforesaid; by the aforesaid act of parliament, made in the thirty third year of the reign of the late king *Henry* the eighth; by warrant; and by the barons.

Steele.

(§ 97.)
Return there-
to.

The execution of this writ appears in the inquisition hereunto annexed.

The answer of — sheriff.

(§ 98.)
Inquisition.

— (to wit.) An inquisition indented, taken at —, the — day of — in the — year of the reign of our sovereign lord *George* the third, by the grace of God, of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, before me — sheriff of the county aforesaid, by virtue of the king's writ to me directed, which is hereunto annexed, on the oath of *G. II.* (&c.) good and lawful men of my bailiwick, who being sworn and charged, on their oath say, that *C. D.* of — made a note in writing, bearing date, (&c.) with his own proper hand thereunto subscribed, and thereby — after date of the said note, promised to pay *I. K.* or his order, the sum of — *l.* value received; which said note was indorsed by the said *I. K.* to *A. B.* in the writ hereunto annexed named; whereby, and by force of the statute in such case made and provided, they became severally liable to pay to the said *A. B.* the said sum of money in the said note mentioned, according to the tenor and effect of the said note, and of the said indorsement so made thereon as aforesaid; which said debt of — *l.* so due as aforesaid, I the said sheriff, on the day of taking this inquisition, have seized and taken into his majesty's hands, according to the command of the said writ: And the jurors aforesaid on their said oath further say, that the said *A. B.* on the day of taking this inquisition, hath not any other or more debts, credits, specialties or sums of money, in my said bailiwick, to the knowledge of the said jurors, which can be seized or taken into his said majesty's hands, by virtue of the said writ. In witness whereof, as well I the said sheriff, as the jurors aforesaid, to this inquisition have set our seals, the day year and place first above-mentioned.

A. B.

A. B. of — maketh oath and saith, that he this deponent, together with *E. F.* of — by their bond or writing obligatory sealed with their seals, bearing date, (&c.) jointly, and severally became bound to his present majesty, in the sum of —*l.* of good and lawful money of *Great Britain*, to be paid to his said majesty, his heirs or successors, with such condition as is therein particularly mentioned; as by the said bond, now in the custody or power of his majesty's commissioners of excise, reference being thereunto had, will more fully appear; and which bond or writing obligatory is standing out and undischarged: And this deponent further saith, that *C. D.* of — and *I. K.* of — are respectively justly and truly indebted to this deponent, in the sum of —*l.* as indorsee of a promissory note in writing, for the said sum of —*l.* made and drawn by the said *C. D.* payable to the said *I. K.* or order, at a certain day now past, and by him the said *I. K.* indorsed to this deponent. And this deponent further saith, that the said *C. D.* and *I. K.* respectively are greatly decayed in their credit and circumstances, and have respectively become insolvent; and that the said *C. D.* hath stopped payment of his just debts; and that a docket for a commission of bankrupt hath been struck against the said *I. K.* and the same is expected forthwith to issue and be proceeded upon; (or “that this deponent hath heard and believes, that a commission of bankrupt has been, or is about to be awarded against the said *C. D.* and that he absconds, or conceals himself, in order to avoid the payment of his just debts”;) and therefore the said debt of —*l.* so due to him from the said *C. D.* and *I. K.* respectively, is in the utmost danger of being lost, whereby this deponent will be rendered the less able to pay the debts so due from him to his said majesty, unless a more speedy course than the ordinary mode of proceeding be forthwith had and taken to recover the said debt, so due from the said *C. D.* and *I. K.* respectively to this deponent. And this deponent further saith, that the said debt so due from the said *C. D.* and *I. K.* respectively to this deponent, is a just and true debt, originally due to this deponent *bonâ fide*, and not in trust for any other person; and that the same, or any part thereof, hath not been put in suit in any other court; and that he this deponent hath not received or been paid, nor hath any person for his use, to the knowledge or belief of

Ch
XXXE.
(§ 99.)

Affidavit thereon, for obtaining an immediate extent in aid.

EXECUTION

of this deponent, received or been paid the same, or any part thereof.

Sworn, (&c)

A. B.

(§ 100)
Warrant or fiat
thereon.

— 18—. Upon reading this affidavit, an extent and inquisition taken thereupon, whereby the within-named C. D. and I. K. are found to be respectively indebted to the within-named A. B. in the sum of —l. let a writ or writs of immediate extent issue against the said C. D. and I. K. for the recovery thereof, with the usual proviso.

Alexander Thomson.

(§ 101)
Writ of immediate extent
thereon.

George the Third, (&c.) To the sheriff of — greeting :
Whereas A. B. of — and E. F. of — by their writing obligatory, sealed with their seals, bearing date, (&c.) are jointly and severally bound to us, in the sum of —l. of good and lawful money of Great Britain, payable at a certain day now past ; and which sum they have not, nor hath either of them, as yet paid, or caused to be paid to us, as it is said : And whereas by an inquisition indented, taken at —, the — day of — in the — year of our reign, before — sheriff of our said county of —, by virtue of our writ of extent, under the seal of our Exchequer at Westminster, against the said A. B. to the said sheriff of — directed, it is found on the oath of G. H. and others, good and lawful men of the said sheriff's bailiwick, that C. D. of — made a note in writing, bearing date, (&c.) with his own proper hand thereunto subscribed, and thereby — after date of the said note, promised to pay I. K. or his order, the sum of —l. value received ; which said note was indorsed by the said I. K. to the said A. B. in the said writ named ; whereby, and by force of the statute in such case made and provided, they became severally liable to pay to the said A. B. the said sum of money in the said note mentioned, according to the tenor and effect of the said note, and of the said indorsement so made thereon as aforesaid ; which said debt of —l. so due as aforesaid, the said sheriff, on the day of taking the said inquisition, hath seized and taken into our hands, according to the command of the said writ ; as by the said writ and return thereof, and the said inquisition thereto annexed, certified into our said Exchequer, and there remaining in

in custody of our remembrancer, may more fully appear: And we being willing to be satisfied the said sum of —*l.* how due to us, with all the speed we can, as is ^{first} command you, &c. (as before, p. 454. to the *teste*, concluding as follows :) By the writ and inquisition aforesaid; by warrant of the lord chief baron; by the aforesaid act of parliament, (~~&c.~~) ; and by the barons.

CHAR.
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George the Third, (&c.) To the sheriff of — greeting: (§ 102)
Whereas by an inquisition taken before you, the — day of ^{Supersedes} the 10th. — last, by virtue of our writ of extent, issued out of and under the seal of our Exchequer, against *A. B.* to you directed, it was found that *C. D.* of — made a note in writing, bearing date, &c. (as in the inquisition); which said debt of —*l.* so due as aforesaid, you have seized and taken into our hands, according to the command of the said writ; as by the said writ of extent, and inquisition thereon taken, returned and filed in our said Exchequer, and there remaining in the custody of our remembrancer, more fully and at large appears: And whereas by our writ of extent, tested the — day of — last, issued out of and under the seal of our Exchequer, to you directed, against the said *C. D.* we have, amongst other things, commanded you, that you should not omit by reason of any liberty, but that you should enter the same, and take the body of the said *C. D.* and him safely and securely keep in our prison, until he should fully satisfy us the said debt of —*l.*; and that you should likewise extend take and seize into our hands, all the lands, tenements, goods and chattels, debts, credits, specialties, sum and sums of money, of him the said *C. D.* which you should find in your bailiwick, there to remain until we should be fully satisfied our said debt. Nevertheless, for certain reasons the barons of our said Exchequer thereunto especially moving, we command you, that if the said *C. D.* now remains in your custody on that and no other account, you do forthwith release him, and let him go at large; and if you have by virtue of the said writ, taken and seized into our hands any goods or chattels, lands or tenements, debts, credits, specialties, sum or sums of money whatsoever, of him the said *C. D.* you do forthwith re-deliver or cause the same to be re-delivered to the said *C. D.* or his assigns, by virtue of these presents; any thing

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in the said former writ to the contrary notwithstanding. Witness Sir *Alexander Thomson* knight, the — day of — in the — year of our reign. By the barons.

(§ 103.)

Issue, and judgment of *amoveas manus*, in the Exchequer, on a writ of extent in aid, detained by assignees of a bankrupt, with continuances by impurance, *vicecomes non misit breve*, and *cum adversariis vult*.

More common matters, of — term, in the — year of the reign of king *George* the third.

(to wit.) Be it remembered, that a writ of his present majesty, under the seal of this Exchequer, by consideration of the barons here, issued in these words: *George* the third, &c. (here copy the writ of immediate extent, and proceed as follows:) At which day, the said sheriff returned here the said writ, thus indorsed: (here copy the sheriff's return): and the said inquisition annexed thereto, follows in these words: (here copy the inquisition, and proceed on a new line as follows.)

And now here, that is to say, on the — day of — in this same term, *E. F.* and *G. H.* assignees of the estate and effects of the said *C. D.* according to the force form and effect of the several statutes concerning bankrupts, appear here in court, by *L. M.* their attorney, and pray *oyer* of the said writ of extent, and the return thereof, and the inquisition taken thereupon, and they are read to them; they also pray *oyer* of the said writ of extent in aid of the said *A. B.* in the said writ of immediate extent mentioned, and of the return thereof, and of the inquisition taken thereupon, and they are also read to them, in these words: *George* the third, &c. (here copy the writ of extent in aid, with the return and inquisition thereon, and proceed as follows:) which being read and heard, and by the said *E. F.* and *G. H.* understood, because they are not as yet fully advised to answer in the premises, they pray of the grace of the court a day to be given them, at which, &c.; and thereupon a day is given, until the — day of —: At which day, the said *E. F.* and *G. H.* appear here as before, and pray a further day may be given them; and thereupon a day is given them, until the — day of —: At which day, the said *E. F.* and *G. H.* appear here as before, and complain that, by colour of the premises, they are grievously vexed and disquieted; and that the said goods and chattels, (&c.) in the said inquisition mentioned, have been taken, and detained in his majesty's hands, unjustly: because protesting,

protesting, that the said writs and the returns thereof, and the inquisitions taken thereupon, are severally insufficient in law, and that the said *E. F.* and *G. H.* are not bound by law to give any answer thereto; for plea nevertheless, the said *E. F.* and *G. H.* say, &c. (here copy the pleadings, beginning each with a new line, and proceed as follows) Therefore the court directs, that an inquisition be taken in the premises; and the sheriff of the county of — is commanded, that he omit not, &c. and cause to come here on —, twelve free and lawful men of the body of the said county of —, of whom each, &c. by whom, &c. and who are not, &c. to take cognizance in the premises; and the same day is given here, to the said *E. F.* and *G. H.* At which day, they appear here as before, and the sheriff doth not return here the said writ, nor do the jurors come; therefore the sheriff is commanded as before, so as, &c. on —, and the same day is given here, to the said *E. F.* and *G. H.* At which day, they appear here as before; and the sheriff, to wit, — returneth here the said writ, with a panel of the names of the jurors annexed thereto, which are on the file of writs executed for his said majesty, of — term, in the — year of his reign, in the office of his remembrancer in —; but the jurors do not come. Therefore the sheriff is commanded, that he detain the said jurors, by their lands, &c. so as, &c. on —, or in the mean time, before the trusty and well beloved Sir *Alexander Thomson* knight, chief-baron of his said majesty's Exchequer at *Westminster*, in the said county of *Middlesex*, in the place where the court of the same Exchequer is there commonly held, on — the — day of —, at nine of the clock in the forenoon of the same day, if he shall then and there first come; and it is told to the said *E. F.* and *G. H.* that they should expect their day before the said chief-baron, at the day and place aforesaid, and that they should be here on —, to hear judgment in the premises, if and so forth. At which day, the said *E. F.* and *G. H.* appear here as before; and the said chief-baron, before whom, &c. hath sent here the tenor of his record, thus indorsed. Afterwards, &c. (here copy the *postea*, and proceed as follows) Whereupon the said *E. F.* and *G. H.* pray judgment in the premises; but because the barons here are desirous of consulting among themselves, before they give judgment, a day is given

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here, to the said *E. F.* and *G. H.* in the same state wherein they now are, until the — day of — in — term, in the — year of his said majesty's reign: At which day, they appear here as before, and pray judgment in the premises: And thereupon the said verdict, and other the premises, being considered by the barons here, and mature deliberation being thereupon had, it is adjudged by the said barons, that the hands of his said majesty be amoved from the possession of the said goods and chattels, (&c.) mentioned in the said inquisition, taken upon the said writ of extent as aforesaid; and that the said *E. F.* and *G. H.* be restored to the possession thereof; and that as well the said — late sheriff of the said county of —, as all others who have been, now are, or hereafter shall be, sheriffs of the said county of —, be discharged in their accounts towards his said majesty, his heirs and successors, of the said goods and chattels, (&c.) mentioned in the said inquisition, taken upon the said writ of extent; and that the said *E. F.* and *G. H.* as to the premises aforesaid, be dismissed the court here, &c.

(§ 107.)
Capias si laicus,
on a statute-
merchant.

George the Third, (&c.) To the sheriff of — greeting. We command you, that you take the body of *C. D.* of — if he be a layman, and shall be found in your bailwick, and him safely keep in our prison, until he shall fully satisfy *A. B.* of — l. which the said *C. D.* on the — day of — in the — year of our reign, before — esquire, then mayor of the city of —, and — gentleman, town-clerk of the same city, then being the clerk deputed and assigned to take recognizances of debts in the city aforesaid, according to the form of the statute-merchant, acknowledged himself to owe to the said *A. B.* and which he ought to have paid to him on the feast of — then next following, but which he hath not yet paid to him, as it is said; and in what manner you shall have executed this our writ, make known to us, (or in C. P. “to our justices,” or in the Exchequer, “to the barons of our Exchequer”) at *Westminster*, on, (&c.) and have there then (or by *original*, in K. B. or C. P. or in the Exchequer, “have there”) this writ. Witness, (&c.)

George

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(\$ 105)

Extent thereof.

George the Third, (&c.) To the sheriff of — greeting :
Whereas by our writ we commanded you, that you should take the body of *C. D.* of — if he was a layman, and should be found in your bailiwick, and him safely keep in our prison, until he should fully satisfy *A. B.* of — l. which the said *C. D.* on the — day of — in the — year of our reign, before — esquire, then mayor of the city of —, and — gentleman, town-clerk of the same city, then being the clerk deputed and assigned to take recognizances of debts in the city aforesaid, according to the form of the statute-merchant, acknowledged himself to owe to the said *A. B.* and which he ought to have paid to him, on the feast of — then next following, but which he had not then paid to him, as it was said ; and in what manner you should have executed that our writ, you should make known to us, (or in C. P. “ to our justices,” or in the Exchequer, “ to the barons of our Exchequer”) at *Westminster*, on, (&c.) : And you at that day returned to us (or “ to our said justices, or barons”) at *Westminster*, that the said *C. D.* is a layman, and not found in your bailiwick : Therefore we command you, that without delay you cause to be delivered to the said *A. B.* by a reasonable price and extent, all the goods and chattels of the said *C. D.* and all the lands and tenements in your bailiwick, of which the said *C. D.* on the aforesaid day of acknowledging the debt aforesaid, or ever afterwards, was seised, to whose hands soever they have come, unless they have descended to any one, being within age, by hereditary descent ; to hold the goods and chattels aforesaid to the said *A. B.* as his proper goods and chattels, and the lands and tenements aforesaid, as his freehold, to him and his assigns, according to the form of the statute in such case made and provided, until he shall have levied thereof the debt aforesaid, together with his damages, and all necessary and reasonable costs in labours, suits, delays and expences ; and nevertheless, that you take the body of the said *C. D.* if he shall be found in your bailiwick, and him safely keep in our prison, until he shall fully satisfy the said *A. B.* of the debt aforesaid : and in what manner, &c. (as in the last.)

George the Third, (&c.) To the sheriff of — greeting :
We command you, that of the moveable goods and chattels
of

(\$ 106.)

Levari facias
against a clerk.

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of *C. D.* parson of the church of — in your bailiwick, without delay you cause to be levied —*l.* which the said *C. D.* on — before, (&c.) acknowledged, &c. (as in the *capias si laicus*, to the words “as it is said”); and that you cause the said *A. B.* to have the same; and in what manner, &c. (as before, p.468.)

(§ 107.)
Extent, on a
statute-staple.

George the Third, (&c.) To the sheriff of — greeting :
Because *C. D.* of — on the — day of — in the — year of our reign, before — of — mayor of our staple of —, deputed to take recognizances of debts in the same staple, acknowledged himself to owe to *A. B.* of —, —*l.* (&c.) which he ought to have paid to him on the feast of — then next following, but which he hath not yet paid to him, as it is said : We command you, that you take the body of the said *C. D.* if he be a layman, and shall be found in your bailiwick, and safely keep him in our prison, until he shall fully satisfy the said *A. B.* of the debt aforesaid ; and that by the oath of honest and lawful men of your bailiwick, by whom the truth of the matter may be the better known, you diligently cause to be extended and appraised, and to be taken into our hands, all the lands and tenements and chattels of the said *C. D.* in your bailiwick, according to the true value of the same, and cause them to be delivered to the said *A. B.* until he shall be fully satisfied of the debt aforesaid, according to the form of the ordinance thereof made : and in what manner you shall have executed this our command, make known to us in our Chancery, on — next coming, wheresoever, &c. by your letters sealed ; and have there this writ. Witness, (&c.)

(§ 108.)
Liberate there-
on.

George the Third, (&c.) To the sheriff of — greeting :
Whereas *C. D.* of — on, &c. (reciting the last writ, to the words “by your letters sealed,” and then as follows :) And you have returned to us, that the said *C. D.* was not found in your bailiwick, after our writ was delivered to you, but that you have taken into our hands, all the lands and tenements and chattels of the said *C. D.* in your said bailiwick, and caused them to be extended and appraised, according to the tenor of our writ aforesaid, to wit, — messuages, which are appraised at —*l.* (&c.) : Therefore we command you, that
you

you deliver to the said *A. B.* all the lands and tenements and chattels aforesaid, by you so taken into our hands, if he will have them, by the extent and appraisement aforesaid; to hold according to the form of the ordinance aforesaid, until he shall be satisfied of his debt aforesaid: and in what manner, &c. (as in the last writ).

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George the Third, (&c.) To the sheriff of — greeting: (\$ 109.)
Extent against
an heir, upon a
special judg-
ment, in K. B.
or C. P.
Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, (or by *original*, in K. B. “by our writ,”) and by the judgment of the same court, (or, in C. P. “Whereas *A. B.* lately in our court before our justices at *Westminster*, by the consideration and judgment of the same court,”) recovered against *C. D.* son and heir of *E. F.* deceased, a certain debt of — *l.* and also — *l.* which in our said court before us (omitting “before us,” in C. P.) were adjudged to the said *A. B.* for his damages, (&c.) to be levied of the lands and tenements which were of the said *E. F.* in fee-simple at the time of his death, in the hands of the said *C. D.*; whereof, (&c.): Therefore we command you, that by the oath of honest and lawful men of your bailiwick, you diligently inquire of what lands and tenements the said *E. F.* was seised in fee-simple at the time of his death, and which descended to the said *C. D.* as son and heir of the said *E. F.* by hereditary right, after the death of the said *E. F.* and of which the said *C. D.* on the — day of — in the — year of our reign, on which day the said *A. B.* exhibited his bill (or “sued out his original writ”) for the debt aforesaid, against the said *C. D.* was seised in his demesne as of fee, and how much those lands and tenements with the appurtenances are worth by the year, in all issues beyond reprises, according to the true value of the same; and when the said inquisition shall have been by you so made, that without delay you deliver the said lands and tenements with the appurtenances to the *A. B.* to hold to him and his assigns, as his freehold, until the damages (or “debt and damages”) aforesaid shall be thereof fully levied; and in what manner you shall have executed this our writ, make appear to us (or, in C. P. “to our justices”) at *Westminster*, on, (&c.) under your seal, and the
scale

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seals of those by whose oath you shall make the said extent and appraisement; and have there then (or by ~~original~~, in K. B. or C. P. "have there") the names of those by whose oath you shall make the said extent and appraisement, and this writ. Witness, (&c.)

(§ 110.)
The like, another way, in the Exchequer.

George the Third, (&c.) To the sheriff of — greeting :
Whereas *A. B.* our debtor, in our court, before the barons of our Exchequer at *Westminster*, in this present — term, (or "heretofore, that is to say, in the term of — last past,") by the consideration and judgment of the same court, recovered, &c. (as in the last); whereof the said *C. D.* is convicted, as by inspecting the rolls of our said Exchequer, appears to us : Nevertheless, execution of the aforesaid judgment yet remains to be made : Therefore we command you, that by the oath of honest and lawful men of your bailiwick, you diligently inquire, what lands and tenements the said *E. F.* had at the time of his death, in your bailiwick, and whether the said *E. F.* was seised of those lands and tenements in fee-simple, and how much those lands and tenements are worth by the year, clear of all reprises : And if by that inquisition you find, that the said *E. F.* died seised in fee-simple of any lands or tenements in your bailiwick, then that you cause the said lands and tenements to be delivered to the said *A. B.* without delay, according to the true value thereof; to hold unto the said *A. B.* until the debt and damages aforesaid shall be thereof fully levied : and the inquisition which you shall thereupon make, you cause to be made known to the barons of our Exchequer at *Westminster*, on — next coming, under your seal, and the seals of those by whose oath you shall make the said inquisition ; and have you there the names of those by whose oath you shall make that inquisition, and this writ. Witness Sir *Alexander Thomson* knight, (&c.)

(§ 111.)
The like, on a general judgment.

George the Third, (&c.) To the sheriff of — greeting :
Whereas *A. B.* lately in our court, (&c.) recovered against *C. D.* son and heir of *E. F.* deceased, a certain debt of — *l.* and also — *l.* which in our said court before us (omitting "before us," in the Common Pleas or Exchequer,) were adjudged to the said *A. B.* for his damages, (&c.); whereof, (&c.) :
And

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And afterwards, the said *A. B.* came into our said court before us, committing "before us" in the Common Pleas or Exchequer,) and prayed to be delivered to him, all the lands and tenements of the said *C. D.* in your county, which descended to the said *C. D.* from the said *E. F.* his father, in fee-simple, whereof the said *C. D.* on the — day of — in the — year of our reign, on which day the said *A. B.* exhibited his bill (or "sued out his original writ") for the debt aforesaid against him, was seised: But because it is unknown, what lands and tenements the said *C. D.* on the aforesaid day of exhibiting the bill (or "suing out the original writ") aforesaid, had by hereditary descent from the said *E. F.* his father; we command you, that by the oath of honest and lawful men of your bailiwick, you diligently inquire what lands and tenements the said *C. D.* on the same day of exhibiting the bill (or "suing out the original writ") aforesaid, had by hereditary descent from the said *E. F.* his father, and how much those lands and tenements are worth by the year, according to the true value of the same, in all issues beyond reprises: and when the said inquisition shall have been by you diligently made, that without delay you deliver to the said *A. B.* the said lands and tenements with the appurtenances, according to the true value of the same; to hold to the said *A. B.* and his assigns, as his freehold, until the damages (or "debt and damages") aforesaid shall be thereof fully levied: and in what manner you shall have executed this our writ, make appear, &c. (as before, p. 471, 2.)

George the Third, (&c.) To the sheriff of — greeting: (¶ 112.)
We command you, that you take *C. D.* if he shall be found Capias ad satisfaciendum in assumptis, in K. B. in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster*, on — next after —, (or by *original*, "before us, on —, wheresoever," &c.) to satisfy *A. B.* of —, which the said *A. B.* lately in our court before us at *Westminster*, recovered against him, for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended; whereof

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XXXIX. and have there then (or by *original*, "have there") this writ.
Witness, (&c.)

(§ 113.)
The like, in
C. P.

George the Third, (&c.) To the sheriff of — greeting :
We command you, that you take *C. D.* if he shall be found
in your bailiwick, and him safely keep, so that you may have
his body before our justices at *Westminster*, on —, to satisfy
A. B. of — *l.* which the said *A. B.* lately in our same court,
before our justices at *Westminster*, recovered against him, for
his damages which he had sustained, on occasion of the not
performing certain promises and undertakings, then lately
made by the said *C. D.* to the said *A. B.* at — in your
county ; whereof the said *C. D.* is convicted : and have there
this writ. Witness Sir *Vicary Gibbs* knight, (&c.)

(§ 114.)
The like, in the
Exchequer.

George the Third, (&c.) To the sheriff of — greeting :
We command you, that you omit not by reason of any li-
berty of your county, but that you enter the same, and take
C. D. wheresoever he shall be found in your bailiwick, and
him safely keep, so that you may have his body before the
barons of our Exchequer at *Westminster*, on — next com-
ing, to satisfy *A. B.* our debtor of — *l.* which the said
A. B. lately in our court before the barons of our said Exche-
quer at *Westminster*, recovered against him, for his damages
which he had sustained, on occasion of the not performing
certain promises and undertakings, then lately made by the
said *C. D.* to the said *A. B.* ; whereof the said *C. D.* is con-
victed, as by inspecting the rolls of our said Exchequer, ap-
pears to us : and have there this writ. Witness Sir *Alexander*
Thomson knight, (&c.)

(§ 115.)
The like, in
debt, in K. B.

George the Third, (&c.) To the sheriff of — greeting :
We command you, that you take *C. D.* if he shall be found
in your bailiwick, and him safely keep, so that you may have
his body before us at *Westminster*, on — next after —,
(or by *original*, "on — wheresoever," &c.) to satisfy *A. B.*
of a certain debt of — *l.* which the said *A. B.* lately in our
court before us at *Westminster*, recovered against him, and
also — *l.* which in our said court before us, were adjudged
to

to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record; and have there then this writ. Witness, (&c.)

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George the Third, (&c.) To the sheriff of — greeting: (§ 116)
We command you, that you take *C. D.* if he shall be found The like, in C. P.
in your bailiwick, and him safely keep, so that you may have his body before our justices at *Westminster*, on —, to satisfy *A. B.* of a certain debt of —*l.* which the said *A. B.* lately in our court before our justices at *Westminster*, recovered against him, and also —*l.* which in our same court were adjudged to the said *A. B.* for his damages which he had sustained, on occasion of the detention of that debt; whereof the said *C. D.* is convicted: And have there this writ. Witness Sir *Vuary Gibbs* knight, (&c.)

George the Third, (&c.) To the sheriff of — greeting: (§ 117)
We command you, that you omit not by reason of any liberty The like, in the Exchequer.
of your county, but that you enter the same, and take *C. D.* wheresoever he shall be found in your bailiwick, and him safely keep, so that you may have his body before the barons of our Exchequer at *Westminster*, on — next coming, to satisfy *A. B.* our debtor, as well of a certain debt of —*l.* which the said *A. B.* lately in our court before the barons of our Exchequer at *Westminster*, recovered against him, as also —*l.* which were adjudged to the said *A. B.* in our said court, for his damages which he had sustained, on occasion of the detention of the said debt; whereof the said *C. D.* is convicted, as by inspecting the rolls of our said Exchequer, appears to us: and have there this writ. Witness Sir *Alexander Thomson* knight, (&c.)

(As in the last, to the words “whereof the said *C. D.* is convicted,” and then as follows:) And whereupon it is considered in our said court, before the barons of our said Exchequer, that the said *A. B.* have his execution against the said *C. D.* of the debt and damages aforesaid, according to the force form and effect of the said recovery, by the default of the said *C. D.* as by inspecting the rolls of our said Ex-
(§ 118)
The like, after
sees. fieri by
default in the
Exchequer.
chequer,

CHAP. chequer, appears to us: and have there this writ. Wit-
XXXIX. ness, (&c.)

In *assumpsit* or *debt* by or against surviving partners, or by or against executors or administrators, and in *covenant, case, and trespass*, the form of the writ varies, in like manner as the *fieri facias*; for which *vide ante*, p. 408. &c.

(§ 119.) *George the Third, (&c.)* To our chancellor of our county-
The like, to a palatine of *Lancaster*, or to his deputy there, greeting: We
county-palatine. command you, that by our writ, under the seal of our said county-palatine to be duly made, and directed to the sheriff of our said county-palatine, you command the said sheriff, that he take *C. D.* if he shall be found in his bailiwick, and him safely keep, so that you may have his body before us, (or, in *C. P.* "before our justices," or in the Exchequer, "before the barons of our Exchequer") at *Westminster*, on, (&c.) to satisfy *A. B.* of — *l.* (or, "of a certain debt of — *l.*") &c. (as in a common *capias ad satisfaciendum*, to the end.)

(§ 120) Afterwards, to wit, on the — day of — in this same
Entry, and award of *capias* term, the said *A. B.* comes here into court, by his attorney
ad satisfaciendum and *testatur*, in K. B. aforesaid, and prays the writ of the lord the king of *capias*
ad satisfaciendum, to be directed to the sheriff of —, commanding him, that he take the said *C. D.* if he be found in his bailiwick, and him safely keep, so that he may have his body before the said lord the king at *Westminster*, on — next after —, (or by *original*, "before the said lord the king, on — wheresoever," &c.) to satisfy the said *A. B.* his damages (or "debt and damages") aforesaid, and it is granted to him, &c.; the same day is given to the said *A. B.* at the same place: At which day, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the sheriff, to wit, — sheriff of the county aforesaid, now here returns to the said lord the king at *Westminster* aforesaid, that the said *C. D.* is not found in his bailiwick: Whereupon the said *A. B.* prays another writ of the said lord the king of *capias ad satisfaciendum*, to be directed to the said sheriff of —, commanding him in form aforesaid; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —, (or by *original*, "before

fore the said lord the king, on — wheresoever," &c.); the same day is given to the said *A. B.* at the same place: At which day, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the sheriff hath not sent the said last-mentioned writ, nor hath he done any thing thereupon: Whereupon on behalf of the said *A. B.* it is sufficiently testified in the said court of the said lord the king before the king himself, that the said *C. D.* runs up and down and secretes himself in the county of —; and thereupon the said *A. B.* prays the writ of the said lord the king of *testatum cupias ad satisfaciendum* against the said *C. D.* to be directed to the sheriff of the said county of —, commanding him in form aforesaid; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —, (or by *original*, "before the said lord the king, on — wheresoever," &c.) the same day is given to the said *A. B.* at the same place.

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I have taken the within-named *C. D.* whose body I have ready, at the day and place within contained, as within I am commanded. (§ 121.)
Return of *captus corpus*.

The answer of — sheriff.

The within-named *C. D.* is not found in my bailiwick.

The answer, (&c.) (§ 122.)
Non est in bailiwick.

I do hereby certify and return to the lord the king (or, in C. P. "to the justices of the lord the king," or in the Exchequer, "to the barons of his majesty's Exchequer") at *Westminster*, that before the coming of the annexed writ to me directed, to wit, on the — day of — in the year of our Lord 18— *C. D.* in the said writ named, then being a — dealer and chapman, and being then indebted to *E. F.* a subject of this kingdom, in the sum of 100*l.* and upwards, and being also then indebted to divers other persons, in divers other large sums of money, became a bankrupt, within the true intent and meaning of the several statutes made and then in force concerning bankrupts, or some or one of them; and thereupon (§ 123.)
That the defendant had become bankrupt, and obtained his certificate, wherefore the sheriff forbore to take him

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thereupon a certain commission of bankrupt, under the great seal of the united kingdom of *Great Britain* and *Ireland*, bearing date at *Westminster* the day and year last aforesaid, was duly awarded and issued, at the petition of the said *E. F.* against the said *C. D.* directed to certain commissioners therein named; and the said *C. D.* was thereupon duly found and declared a bankrupt, by the major part of the said commissioners: And I do hereby further certify and return, that the said *C. D.* at the several meetings appointed for his surrendering himself, and making a discovery and disclosure of his estate and effects, and finishing his examination, duly surrendered himself to the major part of the said commissioners, and submitted to be examined from time to time; and at the last of the said meetings, finished his examination upon oath, before the major part of the said commissioners; and upon such his examination, made a full discovery and disclosure of his estate and effects, and in all things conformed himself to the directions of the several statutes made and then in force concerning bankrupts, and particularly to the act of parliament made in the fifth year of the reign of his late majesty king *George* the second, intituled "An act to prevent the committing of frauds by bankrupts;" and that the said *C. D.* afterwards, and after the recovery of the damages in the said writ mentioned, and before the coming of the said writ to me directed, to wit, on the — day of — in the said year of our Lord 18—, duly obtained his certificate of conformity to the several statutes made and then in force concerning bankrupts, and particularly to the said act of parliament made in the fifth year of his said late majesty's reign; and which certificate afterwards, and before the coming of the said writ to me directed, was duly allowed and confirmed by the right honourable *Thomas Lord Erskine*, then being lord high chancellor of *Great Britain*, according to the form of the statute in such case made and provided: And I hereby further certify and return, that the cause of action upon which the recovery in the said writ mentioned was had and obtained, accrued to *A. B.* in the said writ named, against the said *C. D.* before such time as the said *C. D.* so became a bankrupt: Wherefore I the said sheriff, having notice of all
and

and singular the premises aforesaid, did forbear to take the body of the said *C. D.* as within I am commanded.

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The answer, (&c.)

By virtue of this writ to me directed, I made my mandate to the bailiff of *E. F.* esquire, of his liberty of —, who hath the execution and return of all writs and process within the said liberty, and without whom no execution of this writ could be made by me within the same; which said bailiff hath not given me any answer thereto. (Or, hath answered me thus: I have taken the within-named *C. D.* whose body I have ready, &c.)

The answer, (&c.)

George the Third, (&c.) To the sheriff of — greeting: We command you, that you omit not by reason of any liberty in your county, but that you enter the same, and take, &c. (as in the former *capias ad satisfaciendum*, altering the return)

George the Third, (&c.) To the sheriff of — greeting: We command you, that you take *C. D.* &c. (as before, p. 173, 4. in K. B. or p. 474, 5. in the Common Pleas or Exchequer, to the words “whereof,” &c. and then as follows:) And whereupon our sheriff of — at a certain day now past, returned to us, (or in C. P. “to our said justice,” or in the Exchequer, “to the barons of our said Exchequer,”) at Westminster, that the said *C. D.* was not found in his bailwick; whereas it is testified in our same court, that the said *C. D.* runs up and down, and secretes himself in your county; and have there then (or by original, in K. B. or C. P. or in the Exchequer, “have there”) this writ. Witness, (&c.)

George the Third, (&c.) To the chancellor of our county-palatine of Lancaster, or to his deputy there, greeting: We command you, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of the said county-palatine, you command the said sheriff, that he take *C. D.* &c. (as before, p. 476. to the words “whereof the said *C. D.* is convicted,” and then as follows:)

And

CHAP. And whereupon our sheriff of — at a certain day now past,
XXXIX. returned, &c. (as in the last.)

(§ 129.)
The like, from
a county-pala-
tine.

George the Third, (&c.) To the sheriff of — greeting !
Whereas by our writ we lately commanded our chancellor of our county-palatine of *Lancaster*, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of our said county-palatine, he should command the said sheriff, that he should take, &c. (reciting the former writ, to the words, “whereof,” &c.) And our said chancellor of our said county-palatine at that day returned to us, for in C. P. “to our said justices,” or in the Exchequer, “to the barons of our said Exchequer,”) that by virtue of the said writ to him directed, he had, by another writ under the seal of our said county-palatine duly made, and directed to the sheriff of the same county, commanded the said sheriff, as by the said first-mentioned writ he was commanded ; which said sheriff, in answer to the said writ to him directed, had returned to our said chancellor, that the said *C. D.* was not found in his bailiwick : whereupon on behalf of the said *A. B.* it is sufficiently testified in our said court before us, (omitting “before us” in the Common Pleas or Exchequer,) that the said *C. D.* runs up and down, and secretes himself in your county : Therefore we command you, that you take the said *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us, (or, “before our said justices, or barons”) at *Westminster*, on (&c.) to satisfy the said *A. B.* of his damages (or “debt and damages”) aforesaid ; and have there then (or by *original* in K. B. or C. P. or in the Exchequer, “have there”) this writ. Witness, (&c.)

(§ 129.)
The like, from
one county-
palatine to
another.

George the Third, (&c.) To our chancellor of our county-palatine of *Chester*, or to his deputy there, greeting :
Whereas by our writ we lately commanded our chancellor of our county-palatine of *Lancaster*, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of the same county-palatine, he should command the said sheriff, that he should take, &c. (reciting the former writ, to the words “whereof,” &c.) And our said chancellor of our said county-palatine of *Lancaster*, at that day returned to us, (or in C. P. “to our said justices,” or in the Exchequer, “to the

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the barons of our said Exchequer,) that by virtue of our said writ to him directed, he had by another writ, &c. (as in the last;) which said sheriff, in answer to the said writ to him directed, had returned to our said chancellor, that the said *C. D.* was not found in his bailiwick; whereupon on behalf of the said *A. B.* it is sufficiently testified in our said court before us, (omitting "before us," in the Common Pleas or Exchequer,) that the said *C. D.* runs up and down and secretes himself in our said county-palatine of *Chester*: Therefore we command you, that by our writ under the seal of our said county-palatine of *Chester* to be duly made, and directed to the sheriff of the same county-palatine, you command the said last-mentioned sheriff, that he take the said *C. D.* if he shall be found in his bailiwick, and him safely keep, so that he may have his body before, (&c.) on, (&c.) to satisfy the said *A. B.* of his damages (or "d bt and damages") aforesaid; and have there then (or by *original*, in K. B. or C. P. or in the Exchequer, "have there") this writ. Witness, (&c.)

George the Third, (&c.) To the chancellor of our county-palatine of *Lancaster*, or to his deputy there, greeting: Whereas we lately commanded our sheriff of —, that he should take *C. D.* late of —, if he should be found in his bailiwick, and him safely keep, so that he might have his body before our justices of the great sessions, holden at — in and for the county of —, on a certain day now past, to satisfy *A. B.* of —*l.* (or "of a certain debt of —*l.*") which the said *A. B.* lately in our court of great sessions, holden at — aforesaid, in and for the said county of —, before — our chief-justice of — aforesaid, and — our other justice of the said county, had recovered against him the said *C. D.* (&c.) whereof the said *C. D.* was convicted, as appeared to us of record: And our said sheriff of — at that day returned to our said justices, at the great sessions aforesaid, that the said *C. D.* was not found in his bailiwick: And afterwards, for certain reasons, we caused the transcript of the record of the said recovery, to be duly certified and removed from and out of our said court of the great sessions aforesaid, into our court before us at *Westminster*, according to the form of the statute in such case made and provided: And now, on behalf of the said *A. B.* it is sufficiently testified

(§ 130.)
The like, to a county palatine, after a removal from the Great Sessions by certiorari, under the statute 33 Geo. III. c. 68.

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in our said court before us, that the said *C. D.* runs up and down, and secretes himself in our said county-palatine: Therefore we command you, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of the said county-palatine, you command the said sheriff, that he take the said *C. D.* if he shall be found in his bailiwick, and him safely keep, so that he may have his body before us, on — wheresoever we shall then be in *England*, to satisfy the said *A. B.* of his damages (or “debt and damages”) aforesaid; and have there this writ. Witness, (&c.)

(§ 131.)
Capias ad satis-
faciendum, for
the residue.

George the Third, (&c.) To the sheriff of — greeting: Whereas by our writ we lately commanded you, that of the goods and chattels, &c. (reciting the *feri facias*): And you at that day returned to us, (or in C. P. “to our said justices,” or in the Exchequer, “to the barons of our said Exchequer”) at *Westminster*, that by virtue of the said writ to you directed, you had caused to be made of the goods and chattels of the said *C. D.* — *l.* parcel of the damages (or “debt and damage”) aforesaid; which money you had ready, at the day and place in the said writ contained, to render to the said *A. B.* for so-much of his damages (or “debt and damages”) aforesaid, as by the said writ you were commanded; and that the said *C. D.* had not any other or more goods or chattels in your bailiwick, whereof you could cause to be made the residue of the damages (or “debt and damages”) aforesaid, or any part thereof: Therefore we command you, that you take the said *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us, on, (&c.) to satisfy the said *A. B.* of — *the residue* of his damages (or “debt and damages”) aforesaid; and have there then (or by *original*, in K. B. or C. P. or in the Exchequer, “have there”) this writ. Witness, (&c.)

(§ 132.)
The like, to a
county-pala-
tine.

George the Third, (&c.) To our sheriff of our county-palatine of *Lancaster*, &c. to his deputy there, greeting: Whereas by our writ we lately commanded you, that by our writ under the seal of our said county-palatine to be duly made,

made, and directed to the sheriff of our said county-palatine, you should command the said sheriff, that of the goods and chattels, &c. (reciting the *fiat facias*) And you at that day returned to us, (or in C. P. "to our said justices," or in the Exchequer, "to the barons of our said Exchequer,") that by virtue of the said writ to you directed, you had by another writ, under the seal of our said county-palatine duly made, and directed to the sheriff of our said county-palatine, commanded the said sheriff, as by our said first-mentioned writ you were commanded; which said sheriff, in answer to the said writ to him directed, had returned to you, that by virtue of the said last-mentioned writ, he had caused to be made of the goods and chattels of the said *C. D.* — *l.* part of the damages (or "debt and damages") aforesaid, which money he had ready before us, (or "before our said justice, or barons,") at the day and place in the said last-mentioned writ contained, to be rendered to the said *A. B.* as by the writ he was commanded; and that the said *C. D.* had not any other or more goods or chattels in his bailiwick, whereof he could cause to be made the residue of the damages (or "debt and damages") aforesaid, or any part thereof. Therefore we command you, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of our said county-palatine, you command the said sheriff, that he take the said *C. D.* if he shall be found in his bailiwick, and him safely keep, so that he may have his body before, (&c.) on, (&c.) to satisfy the said *A. B.* of — *l.* residue of his damages (or "debt and damages") aforesaid, and have there then (or by *original*, in K. B. or C. P. or in the Exchequer, "have them") this writ. WITNES, (&c.)

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George the Third, (&c.) To the sheriff of — greeting. (§ 179)
Whereas we lately commanded you, that of the goods and chattels, &c. (reciting the *fiat facias, de bonis testatoris, &c.*) — *C. p. is ad satisfaciendum* against an executor or administrator, after return of *nulla bona* to a *fiat facias de bonis propriis* — And you at that day returned to us, (or in C. P. "to our said justices," or in the Exchequer, "to the barons of our said Exchequer,") that, &c. (reciting the return of *nulla bona testatoris nec propria, and devastavit*, for which *vide ante*, p. 423.) Whereupon we lately commanded you, that of the proper

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proper goods and chattels, &c. (reciting the *feri facias, de bonis propriis*): And you at that day returned to us, (or in C. P. "to our said justices," or in the Exchequer, "to the barons of our said Exchequer,") that the said *C. D.* had not any of his own proper goods or chattels in your bailiwick, whereof you could cause to be made the damages (or "debt and damages") aforesaid: Therefore we command you, that you take the said *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before, (&c.) on, (&c.) to satisfy the said *A. B.* of his damages (or "debt and damages") aforesaid; and have there then (or by original, in K. B. or C. P. or in the Exchequer, "have there") this writ. Witness, (&c.)

(§ 134.)
*Testatum copias
ad satisfaciendum,
in a similar case.*

George, the Third, (&c.) To the sheriff of — greeting: Whereas we lately commanded our sheriff of —, that of the goods and chattels, &c. (reciting the *feri facias, de bonis testatoris, &c.*): And our said sheriff of — at that day returned to us, (or in C. P. "to our said justices," or in the Exchequer, "to the barons of our said Exchequer,") that, &c. (reciting the return of *nulla bona testatoris nec propria, and devastavit*, for which *vide ante*, p. 423.) Whereupon we lately commanded our said sheriff of —, that of the proper goods and chattels, &c. (reciting the *feri facias, de bonis propriis*): And our said sheriff of — at that day returned to us, (or "to our said justices, or barons,") that, &c. (reciting the return of *nulla bona propria*): Whereupon we commanded our said sheriff of —, that he should take, &c. (reciting the *copias ad satisfaciendum*): And our said sheriff of — at that day returned, (&c.) that the said *C. D.* was not found in your bailiwick; whereupon on behalf of the said *A. B.* it is shewn, that he is not found in our said court before us, (omitting "in the Common Pleas or Exchequer,") that the said *C. D.* is not found, and secretes himself in your bailiwick: Therefore we command you, that you take the said *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before, (&c.) on, (&c.) to satisfy the said *A. B.* of his damages (or "debt and damages") aforesaid; and have there then (or by original, in K. B. or C. P. or in the Exchequer, "have there") this writ. Witness, (&c.)

At

At which day, before the lord the king at *Westminster*, comes the said *A. B.* in his proper person; and — chancellor of the bishoprick of *Durham* aforesaid returns, that by virtue of the said writ to him thereupon directed, he hath commanded the sheriff of the county of *Durham* aforesaid, that the said sheriff should in all things fully execute the said writ of the said lord the king; which said sheriff answered him, that before the coming of the said writ of the said lord the king to him directed, divers goods and chattels, which were of the said *E. F.* deceased at the time of his death, came to the hands and possession of the said *C. D.* to be administered, which said goods and chattels the said *C. D.* afterwards, and before the coming of the said writ to him, had eloiigned, wasted and converted to his own use; wherefore the said sheriff could not cause the said — *l.* for the damages aforesaid, or any part thereof, to be made of the goods and chattels which were of the said *E. F.* deceased, as by the said writ he was commanded; and the said sheriff further answered the said chancellor, that of the proper goods and chattels of the said *C. D.* he had caused to be made the said — *l.* for the costs and charges aforesaid, as he was commanded: Which said — *l.* by the said sheriff brought here into court, by the same court here are delivered to the said *A. B.* in part of the damages aforesaid; therefore let the said sheriff be acquitted of the said — *l.* &c. And as to — *l.* residue of the damages aforesaid, it is considered, that the said *A. B.* have execution against the said *C. D.* of the said — *l.* residue of the damages aforesaid, of the proper goods and chattels of the said *C. D.* Therefore it is commanded to the said chancellor of the bishoprick aforesaid, that by the writ of the said lord the king to him made, and directed to the sheriff of the said county of *Durham*, he cause it to be commanded to the sheriff of the county of *Bedford*, that of the proper goods and chattels of the said *C. D.* he cause to be made the said — *l.* for the damages aforesaid; and that he have execution against the said lord the king at *Westminster*, for the said — *l.* for by original, "before the said — *l.* be paid, or preserved," &c.) to be rendered to the said *A. B.* in full aforesaid; the same day is given to the said *A. B.* there, &c. At which day before the said lord the king at *Westminster*, comes the said *A. B.*

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(§ 135.)

Entry of return of *deceusavit*, upon a *fiery facias de bonis testatoris*, &c. to the county-palatine of *Durham* and award of *fiery facias de bonis propriis*; and upon the return of part levied, award of *capias ad satisfaciendum* and *testatum* for the residue, in *K. B.*

George the Third, (&c.) To the sheriff of — greeting: CHAP. XXXIX.
(§ 136)
Exigi facias,
after capias ad satisfaciendum.
We command you, that you cause *C. D.* late of — to be demanded from county-court to county-court (or, if in *London*, “from husting to husting,”) until, according to the law and custom of *England*, he be outlawed, if he do not appear; and if he do appear, then that you take him, and cause him to be safely kept, so that you may have his body before us, on — wheresoever we shall then be in *England*, (or in *C. P.* “before our justices at *Westminster*, on —,”) to satisfy *A. B.* of — *l.* (or “of a certain debt of — *l.*”) which the said *A. B.* lately in our court before us at *Westminster*, (or “in our said court,” in *C. P.*) recovered against him, &c. (as in a common *capias ad satisfaciendum*, to the words “whereof,” &c.) And whereupon you returned to us, (or, in *C. P.* “to our said justices,”) on, &c. (the return-day of the *capias ad satisfaciendum*,) last past, that the said *C. D.* was not found in your bailiwick; and have there this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of — greeting (§ 137)
Ex parte teas to capias ad satisfaciendum irregularly issued, in the Exchequer.
Whereas we lately commanded you, by our writ, that you should not omit, &c. (reciting the writ of *ca sa* to the words “appears to us,”) as in the said writ is more fully contained. Nevertheless because, after the issuing of the said writ, it appeared to the barons of our said Exchequer at *Westminster* aforesaid, that the said writ issued erroneously, therefore we command you, that if the said *A. B.* be detained in your custody for that cause, and no other, then you suffer him to go at large, as you will answer the contrary at your peril. Witness Sir *Alexander Thomson* knight, (&c.)

Rose,

— *H.* and *I. K.* attorneys of the court of (§ 138)
Warrant of attorney, to a knight, satisfaction.
(or Common Pleas) at *Westminster*, jointly and severally, or any other attorney of the same
Whereas *C. D.* of — last past, obtained final judgment in his majesty's court of King's Bench (or Common Pleas) at *Westminster*, against *C. D.* of — for — *l.* debt and — *l.* costs, (or for — *l.*

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XXXIX.

—l. damages and costs,") as by the record thereof may appear: And whereas I the said *A. B.* have received satisfaction for the same: These are therefore to desire and authorize you the attornies above-named, or any one of you, or any other attorney of the same court, to acknowledge and enter satisfaction, upon the record of the same judgment; and for your so doing, this shall be your sufficient warrant and discharge in that behalf. In witness whereof, I have hereunto set my hand and seal, the — day of —, in the year of our Lord 18—.

Sealed and delivered, being first
duly stamped, in the presence } *A. B.*
of, —.

(§ 139)
Satisfaction-
piece, in K. B.

— term, in the — year of the reign of king
George the third.

Law & Markham.

— (to wit) Satisfaction is acknowledged between *A. B.* plaintiff and *C. D.* defendant, of a plea of trespass on the case, for —l. damages and costs, (or, "of a plea of debt for —l. debt, and —l. damages," &c.)

Judgment entered of — term, — *Geo. III.* Roll —.
E. F. attorney.

(§ 140)
Entry of satisfaction.

Afterwards, to wit, on — next after — (by *bill*, or by *original*, in K. B. or C. P. or in the Exchequer, "on —," in — term, in the — year of the reign of the lord the king, before the said lord the king at *Westminster*, comes (or, in the Common Pleas or Exchequer, "Afterwards comes here," the said *A. B.* by his attorney aforesaid, "by his attorney in this behalf,") and acknowledges himself satisfied by the said *C. D.* of the damages and costs aforesaid, (or in debt, "of the debt aforesaid,"): Therefore let the said *C. D.* be the said —.

(§ 141)
The writ, after entry of satisfaction, in the writ of *certiorari* and return in the writ of *certiorari* & 9 *W. III. c. 11.* 1 & 2. in K. B.

Afterwards, to wit, on — next after — term, in the — year of the reign of the lord the king, the said *A. B.* comes here into court, by his attorney aforesaid, and prays the writ of the said lord the king of *certiorari*, to be directed to the sheriff of —, for levying the said sum of —l.

—*l.* being the damages aforesaid, in form aforesaid assessed; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —; the same day is given to the said *A. B.* at the same place: At which day, before the said lord the king at *Westminster* aforesaid, comes the said *A. B.* by his said attorney; and the sheriff, to wit, — sheriff of the said county of —, now here returns, that he has caused to be levied of the goods and chattels of the said *C. D.* the said sum of —*l.* as by the said writ he was commanded: And hereupon the said *A. B.* freely here in court acknowledgeth, that he is fully paid and satisfied all such damages so assessed as aforesaid, together with his costs of suit, and all reasonable charges for executing the said execution: Therefore let the lands and goods of the said *C. D.* be forthwith discharged of the said execution, according to the form of the statute in such case made and provided.

CHAP. XL.

Of SCIRE FACIAS.

(§ 1.)
Scire facias, to
 repeal letters
 patent.

GEORGE the Third, (&c.) To the sheriff of — greeting : Whereas we lately by our letters patent, under our great seal of the united kingdom of *Great Britain and Ireland*, bearing date at *Westminster* the — day of — in the — year of our reign, reciting that whereas *C. D.* had by his petition humbly represented unto us, that he had by great study and application, found out and invented, &c. (here recite so much of the letters patent, as relates to the grant of the benefit of the invention, and the prohibition of other persons to use it, with the *proviso*es for making void the same, in case it should appear not to be a new invention, &c. or for want of a proper specification ; and then proceed as follows :) as by the said letters patent, inrolled in our said court of Chancery, (amongst other things,) more fully appears : And whereas we are given to understand, that the said pretended invention of the said *C. D.* was not invented and found out by the said *C. D.* ; and further, that the said *C. D.* was not, nor is the first and true inventor of the said pretended invention of the said *C. D.* according to the true intent and meaning of the said letters patent, and as therein is mentioned ; and further, that the same was before and at the time of making the said letters patent and grant, used by others, in the part of our said united kingdom of *Great Britain and Ireland* ; and further, that one *E. F.* one of our subjects, was at the time of making the said letters patent, the first and true inventor of part of the said supposed invention, pretended to be attained unto by the said *C. D.* ; and further, that the said *E. F.* had assigned the sole use and exercise of which, in the said *C. D.* his executors, administrators, and assigns, the said letters patent were granted as aforesaid ; and further, that part of the said supposed invention, (&c.) being a part thereof for vesting, (&c.) was at the time of making the said letters patent

and

and grant, used by the said *E. F.* to wit, at — in your county; and moreover, that although the said *C. D.* did cause a certain instrument in writing under his hand and seal, bearing date the — day of — in the — year aforesaid, to be inrolled in our high court of Chancery at *Westminster* in the county of *Middlesex*, within one calendar month next and immediately after the date of our said letters patent, to wit, on the said — day of — in the year aforesaid, thereby pretending, in compliance with the said proviso, particularly to describe and ascertain the nature of his said invention, and in what manner the same was to be performed; as by the said instrument in writing so inrolled in our said high court of Chancery at *Westminster* aforesaid, appears; yet the said *C. D.* hath not, in and by the said instrument in writing so inrolled as aforesaid, or by any other instrument in writing under his hand and seal, inrolled in our said high court of Chancery, within one calendar month next and immediately after the date of our said letters patent, particularly described and ascertained the nature of his said invention, and in what manner the same is to be performed, but hath wholly neglected so to do, contrary to the form and effect of the said letters patent, and of the said last-mentioned proviso in that behalf: By means of which said several premises, the said letters patent, so as aforesaid granted to the said *C. D.* are and ought to be void, and of no force or effect in law: And we being willing that what is just should be done in the premises, command you, that by good and lawful men of your bailiwick, you give notice to the said *C. D.* that he be before us, or our Chancery, in — now next ensuing, wheresoever we shall then be in *England*, to shew if he hath or knoweth of any thing, touching for himself, why the said letters patent so granted as aforesaid, and the inrolment of the same, for the cause aforesaid, ought not to be cancelled, vacated and annulled; and if he sheweth nothing to the contrary, the said letters patent restored into our said Chancery, to be cancelled; and further to do and receive in this behalf, as our said Chancery shall consider in this behalf, and in the names of those by whom you shall be sworn, and in our own name, thus writ. Witness ourself at *Westminster*, the — day of — in the — year of our reign.

George

CHAP. XL. *George the Third, (&c.) To the sheriff of — greeting:*
 (§ 2.) *Scire facias for the king, on a bond.*
 Whereas *C. D.* of — and *E. F.* of — by their bond, sealed with their seals, made at *Westminster* in the county of *Middlesex*, bearing date, (&c.) became jointly and severally bound to us, in the sum of —*l.* of lawful money of *Great Britain*, payable at a day past; which sum they or either of them have not yet paid, or caused to be paid to us, as we are informed: And we being desirous to be satisfied the same with all the speed we can, as is just, do command you, that you omit not by reason of any liberty, but enter the same, and by good and lawful men of your bailiwick, give notice to the said *C. D.* and *E. F.* that they be and appear before the barons of our Exchequer at *Westminster*, on the — day of — instant (or next), to shew cause, if they can, why we should not have execution against them, for the said sum of —*l.*; and that you then return there the names of those persons by whom you shall have caused such notice to be given, and this writ. Witness Sir *Alexander Thomson* knight, at *Westminster*, the — day of — in the — year of our reign.

By the said bond; and by the barons.

Steelc.

(§ 3.)
 Declaration
 thereon.

— term, (&c.)

Be it remembered, that a writ of his present majesty, under the seal of this Exchequer, by the consideration of the barons here, issued in these words:

George the Third, &c. (Here copy the writ *verbatim*, and proceed on a new line, as follows:)

At which day, the said sheriff returned unto the said writ, thus indorsed: By virtue of this writ to me directed, I have, by — and — good and lawful men of — given notice to the within-named *C. D.* and *E. F.* that they, and each of them, be and appear before the barons of the Exchequer of our sovereign lord the king, at the place within-mentioned, as I am within commandment.

The power of the sheriff.

(§ 4.)
 Rule to appear.

— the — day of — 18—. Unless *C. D.* and *E. F.* in the writ of *scire facias* hereunto annexed named, do appear thereto, on or before the general seal-

seal-day after the present — term, let judgment be entered CHAP. XL.
for his majesty by default.

By the Court.

— the — day of — 18—.

(§ 5.)
Rule to plead.

Unless *C. D.* and *E. F.* in the writ of *scire facias* hereunto annexed named, do plead thereto, on or before — next, let judgment be entered for his majesty by default.

By the Court.

More common matters, of — term, in the — year of
the reign of king *George* the third.

(§ 6.)
Issue in *scire facias*, on an extent in aid, against the assignees of a bankrupt.

— Be it remembered, that a writ of his present majesty, under the seal of this Exchequer, by consideration of the barons here, issued in these words: *George* the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* of — by his bond, sealed with his seal, bearing date, (&c.) became bound to us, in the sum of —*l.* of lawful money of *Great Britain*, payable at a certain day now past; and which sum he has not yet paid, or caused to be paid, to us, as we are informed: And whereas by an inquisition indented, taken at —, the — day of — in the — year of our reign, before — sheriff of the said county, by virtue of our writ of extent to him directed, it was found on the oath of *I. K.* and others, good and lawful men of his bailiwick, that on the — day of — then instant, the teste of the said writ of extent, and on the day of taking this inquisition, *A. B.* in the said writ named, was and is possessed, as of his own proper chattel, of a bill of exchange, of and in a certain bill of exchange, drawn on *L. M.* by *C. D.* (the bankrupt) payable to *N. O.* or order, — after the date thereof, the sum of —*l.* value received; and which said bill of exchange was accepted by the said *C. D.* and to be paid by the said *N. O.*: And it is further found, that the said bill of exchange, in the said bill of exchange mentioned, and in the said inquisition, remained wholly due, and upon which said chattel or bill of exchange the said sheriff took and seized into our hands, as by the said extent he was commanded; which said sum of —*l.*

still

CHAP. XL. still remains due and unpaid to us: And whereas by another inquisition indented, taken at — the — day of — in the — year of our reign, before you — sheriff of the said county, by virtue of our writ of extent to you directed, it is found, on the oath of *I. K.* and others, good and lawful men of your bailiwick, that *C. D.* in the said writ named, was on the — day of — in the — year aforesaid possessed, as of his own proper goods and chattels, to wit, at — in your bailiwick, of and in divers goods and chattels, to the value of —*l.*; and that afterwards, to wit, on the — day of — in the — year of his said majesty's reign, at — aforesaid in your said bailiwick, the sum of —*l.* being the money arising by sale of the said goods and chattels, was received by *E. F.* of — and *G. H.* of — (the assignees); and which said sum of —*l.* the jurors aforesaid, on their oath aforesaid, say, is on the day of taking this inquisition, in the hands of them the said *E. F.* and *G. H.* to wit, at — aforesaid in your said bailiwick; which said sum of —*l.* the said sheriff took and seized into our hands; as by the said writs of extent, the returns thereof, and the several inquisitions taken thereupon, returned into our court of Exchequer, and there remaining in the custody of our remembrancer, appears: Now we being desirous to be satisfied the said sum of —*l.* with all the speed that may be, command you, that you omit not by reason of any liberty, but enter the same, and by good and lawful men of your bailiwick, give notice to the said *E. F.* and *G. H.* that they be and appear before the barons of our Exchequer at *Westminster*, on the — day of — next, to shew cause, if they can, why we should not have execution against them, for the said sum of —*l.*; and that you then return there the names of those persons by whom such notice shall be given, and this writ. Witness Sir *Alexander Thomson* knight, at *Westminster*, the — day of — in the — year of our reign. By the said several writs of extent and inquisitions; and by the barons.

Steele.

And now here, that is to say, on the — day of — in this same term, the said *E. F.* and *G. H.* appear here in court, by — their clerk in court, and pray over of the said writ of *scire facias*, and the return thereon; and they are read

to

to them: which being read and heard, the said *E. F.* and *G. II.* because they are not as yet fully advised to answer in the premises, pray of the grace of the court, a day to be given them, at which, &c. and which is granted them by the court; and thereupon a day is given to the said *E. F.* and *G. II.* in the same state in which they now are, until — : At which day, the said *E. F.* and *G. II.* appear here as before, and say that his said majesty ought not to have execution against them for the said sum of —*l.* in the said writ of *scire facias* mentioned; because protesting that the said writ of *scire facias*, and the matters therein contained, are wholly insufficient in law; for plea in this behalf, the said *E. F.* and *G. II.* say, &c. (here copy the pleadings to the end, and conclude as follows:) Therefore the court directs that an inquisition be taken in the premises.

Middlesex. Scire facias for A. B. against E. F. and G. II. (47)
bail of *C. D.* for —*l.* damages and costs, (or “—*l.* debt, *Scire facias*
and —*l.* damages and costs,”) returnable on, (&c.) *scire facias*
against bail.

I. K. attorney,

— 18—.

George the Third, (&c.) To the sheriff of Middlesex, (48)
greeting: Whereas *E. F.* of — and *G. II.* of — hereto- *Scire facias*
fore, to wit, in — term, in the — year of our reign, against bail, on
came into our court before us at *Westminster*, in their proper a recognizance
persons, and became pledges and bail, and each of them by bill, in K. B.
became pledge and bail, for *C. D.* that if the said *C. D.*
should happen to be convicted, at the suit of *A. B.* in
a certain plea of trespass on the case upon promises, to the
damage of the said *A. B.* of —*l.* (or in debt, “in a certain
plea of debt for —*l.*”) then lately commenced and depend-
ing in the same court by and at the suit of the said *A. B.*
against the said *C. D.* then the said *E. F.* and *G. II.* con-
sented, and each of them consented, that all such damages
(or in debt, “that shall be the said debt, as all such damages”)
as should be adjudged to the said *A. B.* in that behalf, should
be made of their and of their lands and chattels, and
levied to the use of the said *A. B.* if it should happen that
the said *C. D.* should not pay and satisfy the said damages,
(or

CHAP. XL. (or, in *debt*, "the said debt and damages,") or render himself to the prison of the marshal of our marshalsea before us, on that occasion; as by the record of the said recognizance, still remaining in our said court before us at *Westminster* aforesaid, more fully appears: And although the said *A. B.* afterwards, to wit, in — term, in the — year of our reign, in our said court before us at *Westminster* aforesaid, by bill without our writ, and by the judgment of the same court, recovered in the said plea, against the said *C. D.* — *l.* for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* (or, if in *debt*, "the said debt, and also — *l.* for his damages which he had sustained, as well by means of the detaining of the said debt,") as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as by the record and proceedings thereof, still remaining in our said court before us at *Westminster* aforesaid, more fully appears: yet the said *C. D.* hath not paid or satisfied the said damages, (or "debt and damages,") or any part thereof, to the said *A. B.* or rendered himself to the prison of the marshal of our marshalsea before us, on that occasion, according to the form and effect of the said recognizance; and as well the said recognizance, as the said judgment, still remain in full force and effect, in no-wise set aside, reversed, paid off or satisfied; as we have received information from the said *A. B.* in our said court before us: Wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf; and we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *E. F.* and *G. H.* that they be before us at *Westminster*, on — next after — to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves or himself, why the said *A. B.* ought not to have execution against the said *E. F.* and *G. H.* for the damages (or "debt and damages") aforesaid, according to the force form and effect of the said recognizance, if it shall seem expedient for him so to do, and further to do and receive what our said court before us shall then and there consider of them in this behalf; and have there then the names of those by whom you shall so make known to them, and

and this writ. Witness *Edward* Lord *Ellenborough*, at *West-* CHAP. XL.
minster, the — day of — in the — year of our reign.

George the Third, (&c.) To the sheriff of *Middlesex*, greet- (§ 9.)
ing: Whereas *E. F.* of — and *G. H.* of — heretofore, to The like, on a
wit, in — term, in the — year of our reign, came into recognizance
our court before us at *Westminster*, in their proper persons, by original, in
and became pledges and manucaptors, and each of them by K. B.
himself became pledge and manucaptor, for *C. D.* late of —,
and then and there acknowledged themselves to owe, and
each of them did acknowledge himself to owe to *A. B.* the sum
of —*l.* and did submit and grant for themselves and their
heirs, and each of them did submit and grant for himself and
his heirs, that the said sum of —*l.* should and might be
made of their and each of their lands and chattels, and levied
to and for the use of the said *A. B.* in case the said *C. D.*
should happen to be convicted in a certain plea of trespass on
the case upon promises, to the damage of the said *A. B.* of
—*l.* (or “in debt, in a certain plea of debt for —*l.*”) then
lately depending in the same court, by and at the suit of the
said *A. B.* against the said *C. D.* and if the said *C. D.* should
not pay and satisfy unto the said *A. B.* all such damages (or
if in debt, “as well the said debt or sum of —*l.* as all such
damages”) as should be adjudged to the said *A. B.* in the
plea aforesaid, or render himself to the prison of the marshal
of our marshalsea before us on that occasion; as by the re-
cord of the said recognizance, still remaining in our said
court before us at *Westminster* aforesaid, fully appears: And
although the said *A. B.* afterwards, to wit, in — term, in
the — year of our reign, in our said court before us at
Westminster aforesaid, by our writ, and by the consideration
and judgment of the same court, recovered, &c. (as in the
last, to the mandatory part of the writ, which is as follows:)
that by honest and lawful men of your bailiwick, you make
known to the said *E. F.* and *G. H.* that they be before us, on
— wheresoever we shall then be in *England*, to shew if they
have or know, or whether or them hath or knoweth, of any
thing to say for himself, or himself, that is to say, the said
E. F. why the said sum of —*l.* by him in form aforesaid
acknowledged, should not be made of his lands and chattels,
and the said *G. H.* why the said sum of —*l.* by him in form
K k aforesaid

CHAP. XL. aforesaid acknowledged, should not be made of his lands and chattels, and levied to and for the use of the said *A. B.* according to the force form and effect of the said recognizance, if it shall seem expedient for him so to do; and further to do and receive what our said court before us shall consider of them in this behalf; and have there the names of those by whom you shall so make known to them, and this writ. Witness *Edward Lord Ellenborough, (&c.)*

Kenyon.

(§ 10.)
The like, in
C. P.

George the Third, (&c.) To the sheriff of *Middlesex*, greeting: Whereas *E. F.* of — and *G. H.* of — lately in our court, to wit, in — term, in the — year of our reign, came before Sir *Vicary Gibbs* knight and his companions, then our justices of the bench at *Westminster*, in their proper persons; and acknowledged themselves, and each of them did acknowledge himself, to owe to *A. B.* the sum of —*l.*; which said sum of —*l.* the said *E. F.* and *G. H.* for themselves and their heirs consented and granted, and each of them for himself and his heirs did consent and grant, should be made of their, and each of theirs, lands and chattels, and to the use and behoof of the said *A. B.* be levied; upon this condition, that if judgment should happen to be given, in our said court of the bench aforesaid, for the said *A. B.* against *C. D.* late of —, in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of —*l.* (or, in debt, “in a certain plea of debt upon demand for —*l.*”) by the said *A. B.* in our said court prosecuted, then the said *C. D.* should satisfy all such damages (or in debt, “the debt aforesaid, and all such damages”) as should be adjudged to the said *A. B.* against the said *C. D.* in our same court, in the plea aforesaid, or should render his body on that occasion to the prison of the *Fleet*; as by the record of the said recognizance, remaining in our same court of the bench aforesaid, at *Westminster* aforesaid, more fully appears: And although the said *A. B.* afterwards, to wit, in that same — term, (or “in — term, in the — year aforesaid,”) in our said court, before the said Sir *Vicary Gibbs* knight and his companions, then our justices of the bench aforesaid, at *Westminster* aforesaid, by the consideration and judgment of the same court, recovered in the said plea, against the said

said *C. D.* — *l.* which in our said court were adjudged to **CHAP. XL.**
the said *A. B.* for his damages which he had sustained,
by reason of the not performing certain promises and under-
takings, then lately made by the said *C. D.* to the said *A. B.*
(or in debt, “his said debt, and also — *l.* which in our same
court were adjudged to the said *A. B.* for his damages which
he had sustained, by reason of the detaining the said debt;”)
whereof the said *C. D.* is convicted, as by the record and
proceedings thereof, now remaining in our same court at
Westminster aforesaid, manifestly appears: Nevertheless the
said *C. D.* hath not satisfied the damages aforesaid, (or in
debt, “the debt and damages aforesaid,”) to the said *A. B.*
nor rendered his body on the occasion aforesaid, to the said
prison of the *Fleet*, according to the form and effect of the
recognizance aforesaid: as on the information of the said *A. B.*
in our said court, we are given to understand: And because
we are willing that those things which in our same court are
rightly done and recognized, should be duly carried into
execution, we command you, that by honest and lawful men
of your bailwick, you make known to the said *E. F.* and
G. H. that they be before our justices at *Westminster*, on —,
to shew if they have or know, or if either of them hath or
knoweth, of any thing to say for themselves or himself, that
is to say, the said *E. F.* why the said — *l.* by him in form
aforesaid acknowledged, should not be made of his lands and
chattels, and to the use and behoof of the said *A. B.* be le-
vied, and the said *G. H.* why the said — *l.* by him in form
aforesaid acknowledged, should not be made of his lands and
chattels, and to the use and behoof of the said *A. B.* be le-
vied, according to the form and effect of the said recogni-
zance, if it shall seem expedient for him so to do; and have
you there the names of those by whom you shall so make
known to them, and this writ. Witness Sir *Vicary Gibbs*
knight, at *Westminster*, the — day of — in the — year
of our reign.

George the Third, the — To the sheriff of *Middlesex*, (§ 11.)
greeting: Whereas *E. F.* of — and *G. H.* of — here-
tofore, to wit, in — term, &c. (as in the last but one,
to the end of the judgment, and then proceed as follows:)
— yet the said *C. D.* did not pay or satisfy the said da-
mages, or any part thereof, to the said *A. B.* or render him-
self

The like, after
execution
awarded on a
former *scire*
facios, in K. B.

CHAP. XL. self to the prison of the marshal of our marshalsea before us on that occasion, according to the force form and effect of the said recognizance; whereupon it was afterwards considered, in our said court before us, that the said *A. P.* should have his execution against the said *E. F.* and *G. H.* that is to say, against the said *E. F.* of the said sum of —*l.* by him in form aforesaid acknowledged, and against the said *G. H.* of the said sum of —*l.* by him in form aforesaid acknowledged, according to the force form and effect of the said recognizance, by the default of them the said *E. F.* and *G. H.* as also appears to us of record: And now, on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given, and execution awarded in form aforesaid, yet execution of the said several sums of —*l.* and —*l.* still remains to be made to him; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing, &c. (as in the last but one, to shew why the sums should not be made, &c.) according to the force form and effect of the said recognizance, and award of execution, &c.

(§ 12.)
The like, on a
recognizance
taken before a
commissioner
in the county,
in K. B.

George the Third, (&c.) To the sheriff of *Middlesex*, greeting: Whereas *E. F.* of — and *G. H.* of — heretofore, to wit, on the — day of — in — term, in the — year of our reign, came in their proper persons, before — a commissioner duly empowered to take and receive all and every such recognizance or recognizances of bail or bails, in and for the county of —, as any person or persons should be willing or desirous to acknowledge or make before him, in any action or suit depending in our court before us, according to the form of the statute in such case made and provided; and then and there, before the said — so being such commissioner as aforesaid, became pledges, &c. (stating the recognizance as before, § 8 or 9); which said recognizance afterwards, to wit, on the — day of — in the — year of our reign, was duly transmitted by the said — so being such commissioner as aforesaid, to the honorable — then and still being one of the justices of our said court before us, at his chambers in *Serjeant's Inn, Chancery lane, London*, and by him the said justice was afterwards, to wit, in — term, in the — year of our reign, produced in our
said

said court before us at *Westminster* aforesaid, and then and there recorded in the same court; as by the record thereof, still remaining in our said court before us at *Westminster* aforesaid, more fully appears: And although, &c. (as before, § 8 or 9).

2u. if the above form be necessary in K. B. See 2 Lutw. 1282. C. P.

George the Third, (&c.) To the sheriff of *Middlesex*, greet-
ing: Whereas *E. F.* of — and *G. H.* of — heretofore, to wit, on the — day of — in the — year of our reign, at — in the county of —, came in their proper persons, before — then and there being a commissioner, duly appointed and empowered by our justices of the bench at *Westminster* in the county of *Middlesex*, to take and receive all and every such recognizance or recognizances of bail or bails, in and for the said county of —, as any person or persons should be willing or desirous to acknowledge or make before him, in any action or suit depending in our said court of the bench at *Westminster* aforesaid, according to the form of the statute in such case made and provided; and then and there before the said —, so being such commissioner as aforesaid, became pledges and bail for the said *C. D.* &c. (as in the entry of the recognizance, *ante*, p. 122, 3.) ; which said recognizance afterwards, to wit, on — next after —, in — term, in the — year of our reign, was duly transmitted by the said —, so being such commissioner as aforesaid, to the right honourable Sir *Vicary Gibbs* knight, then and still being chief-justice (or, “to the honourable —, then and still being one of the justices”) of our said court of the bench aforesaid, at his chambers, situate in *Serjeant’s Inn, Chancery lane, London*, and was by him the said chief-justice, (or “justice,”) on — next after — in that same term, brought into our said court of the bench at *Westminster* aforesaid, to be inrolled and recorded; and thereupon the said recognizance, at the request of the said *A. B.* was then and there duly inrolled and recorded in the said court here; as by the record of the said recognizance, still remaining in our said court of the bench aforesaid, at *Westminster* aforesaid, manifestly appears: And although, &c. (as before, p. 498, 9.)

(§ 13.)
The like, in.
C. P.

CHAP. XL. *George the Third, (&c.) To the sheriff of Middlesex, greet*
 (§ 14.)
Scire facias
 against bail, in
 the Exchequer
 of Pleas.

ing : Whereas *A. B.* our debtor, in our court, before the barons of our Exchequer at *Westminster*, heretofore, that is to say, in the term of — last past, (or, “in the — year of our reign,”) by the consideration and judgment of the same court, recovered against *C. D.* — *l.* for his damages which he had sustained, by reason of the not performing certain promises and undertakings then lately made by the said *C. D.* to the said *A. B.* ; whereof the said *C. D.* is convicted, as by the record, (&c.) more fully appears : And although the said judgment hath been given, yet execution of the said damages still remains to be made to the said *A. B.* : And whereas *E. F.* of — and *G. H.* of — heretofore, that is to say, of the term of — last past, in our said court before the barons of our said Exchequer at *Westminster*, personally came, and became pledges and manucaptors, and each of them by himself became pledge and manucaptor, for the said *C. D.* that if it should happen that the said *C. D.* should be convicted in the said plea, then the said manucaptors granted, and each of them by himself granted, that all such damages as should be adjudged to the said *A. B.* in that behalf, should be made of their and each of their lands and chattels, and levied to the use of the said *A. B.* if it should happen that the said *C. D.* should not pay the said damages to the said *A. B.* or render himself to our prison of the *Fleet* upon that occasion : yet the said *C. D.* hath not paid the said damages to the said *A. B.* nor rendered himself to our prison of the *Fleet* upon that occasion ; as by the information of the said *A. B.* in our said court, we have been given to understand : And we being willing that those things which in our said court are rightly done and acknowledged, should have due execution, command you, that by honest and lawful men of your bailiwick, you make known to the said *E. F.* and *G. H.* that they be before the barons of our said Exchequer at *Westminster*, on — next coming, to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves or himself, why the said *A. B.* ought not to have execution against them, for the damages aforesaid, according to the force, form and effect of the said recognizance, if it shall seem expedient for him so to do : And in what manner you shall execute this our writ, make appear to the barons of our said Exchequer

Exchequer at *Westminster*, at the day aforesaid; and have CHAP. XL.
there the names of those by whom you shall so make known
to them, and this writ. Witness Sir *Alexander Thomson*
knight, (&c.)

George the Third, (&c.) To the sheriff of *Middlesex*, greet- (\$ 15.)
ing: Whereas *E. F.* of — and *G. H.* of — on — the The like, on a
recognizance
taken before a
judge, on error
from the Com-
mon Pleas to
the King's
Bench.
— day of — in the year of our Lord 18—, came before
the honourable — one of our justices of the bench, at his
chambers in *Serjeant's Inn, Chancery lane, London*, and ac-
knowledged, and each of them separately did acknowledge
himself to owe to *A. B.* the sum of —*l.* to be levied of their
lands and chattels, and of the lands and chattels of each of
them, to the use of the said *A. B.*; which said recognizance,
in form aforesaid taken, our said justice afterwards, to wit, on
— the — day of — in — term, in the — year of
our reign, delivered with his own proper hands into our said
court of the bench, to wit, at *Westminster* in the county of
Middlesex, to be enrolled, and the same was then and there,
before the honourable Sir *Vicary Gibbs* knight and his brethren,
then our justices of the said bench, enrolled of record in the
same court; as by the record thereof, remaining in our said
court, it manifestly appears: which said —*l.* and —*l.* the
said *E. F.* and *G. H.* have not, nor hath either of them, paid
to the said *A. B.* as we are informed by the said *A. B.* And
because we are willing that those things which in our said
court are rightly done and acknowledged, should be duly
carried into execution; we command you, that by honest and
lawful men of your bailiwick, you make known to the said
E. F. and *G. H.* that they be before our justices at *West-*
minster, on — to shew if they have or know, or if either
of them hath or knoweth, of any thing to say for themselves
or himself, that is to say, the said *E. F.* why the said —*l.*
by him in form aforesaid acknowledged, should not be levied
of his lands and chattels, and the said *G. H.* why the said
—*l.* by him in form aforesaid acknowledged, should not be
levied of his lands and chattels, and rendered to the said *A. B.*
according to the form of the said recognizance, if it shall
seem expedient for him so to do; and have there the names
of those by whom you shall so make known to them, and this
writ.

CHAP. XL. writ. Witness Sir *Vicary Gibbs* knight, at *Westminster*, the
 — day of — in the — year of our reign.

(§ 16.)
 The like, on
 error from the
 King's Bench
 to the Exche-
 quer-chamber.

George the Third, (&c.) To the sheriff of *Middlesex*, greet-
 ing: Whereas *E. F.* of — and *G. H.* of — on the —
 day of — in the — year of our reign, came in their
 proper persons, before the honourable — one of our jus-
 tices assigned to hold pleas in our court before us, at his
 chambers in *Serjeant's Inn, Chancery lane, London*, and ac-
 cording to the form of the statute in such case made and pro-
 vided, acknowledged themselves, and each of them separately
 did acknowledge himself, to owe to *A. B.* the sum of —*l.* of
 lawful money of *Great Britain*, to be paid to the said *A. B.*
 his executors or assigns; and unless they should* so do, the
 said *E. F.* and *G. H.* did grant and agree, and each of them
 for himself did grant and agree, that the said sum of —*l.*
 should be made of their and each of their lands and chattels,
 and levied to the use of the said *A. B.*; upon condition never-
 theless, reciting that the said *A. B.* lately in our court before
 us at *Westminster*, by bill without our writ, and by the judg-
 ment of the same court, had recovered against *C. D.* —*l.*
 for his damages which he had sustained, as well on occasion
 of the not performing certain promises and undertakings, then
 lately made by the said *C. D.* to the said *A. B.* as for his
 costs and charges by him about his suit in that behalf ex-
 pended, whereof the said *C. D.* had been convicted, as ap-
 peared of record in our said court before us at *Westminster*;
 and also reciting that the said *C. D.* had brought a writ of
 error upon the judgment aforesaid, returnable before our jus-
 tices of the Common Bench, and barons of our Exchequer of
 the degree of the coif, in our Exchequer-chamber at *West-*
minster, on — the — day of — in the — year aforesaid;
 if therefore the said *C. D.* should prosecute the said
 writ of error with effect, and should also pay and satisfy to
 the said *A. B.* if the said judgment should be affirmed, or the
 said writ of error be discontinued in his default, or he should
 be nonsuit therein, as well the damages costs and charges
 aforesaid, adjudged upon the said judgment, as also all such
 costs charges and damages, as should be awarded to the said
A. B. for the delay of execution of the judgment aforesaid,
 by

by pretext of prosecuting the said writ of error, then that recognizance was to be void, or else to be and remain in full force and virtue : Which said recognizance the said justice afterwards, to wit, on the — day of — in the — year aforesaid, brought into our said court before us to be enrolled, and the same was then and there enrolled in our said court before us, as of — term, in the — year aforesaid ; as by the record thereof, now remaining in our said court before us at *Westminster* aforesaid, manifestly appears : And such proceedings were had on the said writ of error, in our court of Exchequer-chamber aforesaid, before our justices of the Common Bench and barons of our Exchequer aforesaid, that afterwards, to wit, on — the — day of — in — term, in the — year of our reign, the said writ of error was duly non-prossed (or, “ the judgment aforesaid was in all things affirmed ”) ; and — were then and there, in and by the said court of Exchequer-chamber, adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, by reason of the delay of the execution of the judgment aforesaid, on pretence of prosecuting the said writ of error ; as by the record and proceedings thereof, remitted by our said justices and barons, from the said court of Exchequer-chamber, into our said court before us at *Westminster* aforesaid, according to the form of the statute in such case made and provided, and now remaining in our said court before us at *Westminster* aforesaid, likewise appears to us of record : Nevertheless the said *C. D.* hath not yet paid to the said *A. B.* the said damages costs and charges, so as aforesaid adjudged upon the said first-mentioned judgment, or the damages costs and charges aforesaid, so awarded as aforesaid, or any part thereof ; as on the information of the said *A. B.* in our said court before us, we have been given to understand : Wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf : And we being willing, that what is just in this behalf should be done, do command you, that by good and lawful men^s of your bailiwick, you make known to the said *E. F.* and *G. H.* that they be before us at *Westminster*, on — next after —, to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves

CHAP. XL. selves or himself, why the said *A. B.* ought not to have his execution against them, and each of them, of the said sum of ——*l.*, by them jointly and severally acknowledged in form aforesaid, according to the force form and effect of the said recognizance, if it shall seem expedient for him so to do; and further to do and receive what our said court before us shall then and there consider of them in this behalf; and have there then the names of those by whom you shall so make known to them, and this writ. Witness *Edward Lord Ellenborough, (&c.)*

(§ 17.) *George the Third, (&c.)* To the sheriff of *Middlesex*, greeting: Whereas *E. F.* of —— and *G. H.* of —— on the —— day of —— in —— term, in the —— year of our reign, came into our court before us at *Westminster*, in their proper persons, and according to the form of the statute in such case made and provided, acknowledged, &c. (as in the last, omitting the enrolment of the recognizance).

(§ 18.) *Alias scire facias against bail.* *George the Third, (&c.)* To the sheriff of *Middlesex*, greeting: Whereas, &c. (as in the first writ, inserting these words, after the command to the sheriff, “as before we have commanded you,” and altering the *test* and return.)

In C. P. the *alias* must be tested on the *appearance* day of the return of the first *scire facias*.

(§ 19.) Entry of proceedings, and judgment by default, in *scire facias* against bail, upon the return of *scire feci*, in R. B.

As yet of —— term, in the —— year of the reign of king *George the Third.* Witness *Edward Lord Ellenborough.*

Middlesex, to wit. Our lord the king sent to his sheriff of *Middlesex*, his writ close in these words, that is to say: *George the Third, &c.* (copy the *scire facias* to the end, and then proceed as follows): At which day, before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person; and the sheriff, to wit, —— sheriff of *Middlesex* aforesaid, now here returns, that by —— and —— honest and lawful men of his bailiwick, he has given notice to the said *E. F.* and *G. H.* severally to appear before our said lord the king, at the day and place in the said writ mentioned, to shew

shew cause as by the said writ they are required, and as the CHAP. XL. said sheriff is therein commanded; and the said *E. F.* and *G. H.* although on that day solemnly demanded, come not, nor doth either of them come, but make default: Therefore it is considered, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* of the damages (or “debt and damages”) aforesaid, according to the force form and effect of the said recognizance, by the default of them the said *E. F.* and *G. H.* &c. Judgment signed, (&c.)

Middlesex, to wit. Our lord the king sent to his sheriff of *Middlesex*, his writ close in these words, that is to say: *George* the Third, &c. (copy the first *scire facias* to the end, and proceed as follows): At which day, before our said lord the king at *Westminster*, came the said *A. B.* in his proper person; and the sheriff, to wit, — sheriff of *Middlesex* aforesaid, thereupon returned to our said lord the king, that the said *E. F.* and *G. H.* had not, nor had either of them, any thing in the bailiwick of the said sheriff, where or by which he could give them or either of them notice, as by the said writ he was commanded, nor were they the said *E. F.* and *G. H.* nor was either of them, found in the same; and the said *E. F.* and *G. H.* came not, nor did either of them come: Therefore, as before, it was commanded to the sheriff, that by honest and lawful men of his bailiwick, he should make known to the said *E. F.* and *G. H.* that they should be before our said lord the king at *Westminster*, on — next after —, (the return of the *alias*,) to shew in form aforesaid, if, &c. and further, &c. the same day was given to the said *A. B.* there, &c. At which day, before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person; and the said sheriff of *Middlesex*, as before, returns that the said *E. F.* and *G. H.* have not, nor hath either of them, any thing in the bailiwick of the said sheriff, where or by which he can give them or either of them notice, as by the said last-mentioned writ he is commanded, nor are they the said *E. F.* and *G. H.* nor is either of them, found in the same; and the said *E. F.* and *G. H.* although on that day solemnly demanded, come not, nor doth either of them come, but make default: Therefore it is considered, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* of the da- (\$ 20.)
The like, upon
two *nihil* re-
turned, in
K. B.

Judgment signed, (&c.)

CHAP. XL. mages (or "debt and damages") aforesaid, according to the force form and effect of the said recognizance, by the default of them the said *E. F.* and *G. II.* &c.

(§ 21.)
The like, by
original, in
K. B.

Therefore it is considered, that the said *A. B.* have execution against the said *E. F.* and *G. II.* that is to say, against the said *E. F.* of the said sum of —*l.* by him in form aforesaid acknowledged, and against the said *G. II.* of the said sum of —*l.* by him in form aforesaid acknowledged, according to the force form and effect of the said recognizance, by the default of the said *E. F.* and *G. II.* &c.

(§ 22.)
The like, upon
the return of
scire fieri, in
C. P.

Middlesex, to wit. The sheriff was commanded, whereas *E. F.* of — and *G. II.* of — lately in the court of the lord the king here, to wit, in — term, in the — year of the reign of the said lord the king, came before Sir *Ticary Gibbs* knight and his companions, then his majesty's justices, &c. (reciting the writ of *scire facias*, to the following words, "as on the information of the said *A. B.* the said lord the king had been given to understand;") and because, &c. that by honest, &c. he should make known to the said *E. F.* and *G. II.* that they should be here at this day, to wit, on —, to shew if any thing, &c. that is to say, the said *E. F.* why the said —*l.* by him in form aforesaid acknowledged, should not be made of his lands and chattels, and to the use and behoof of the said *A. B.* be levied, and the said *G. II.* why the said —*l.* by him in form aforesaid acknowledged, should not be made of his lands and chattels, and to the use and behoof of the said *A. B.* be levied, according to the form and effect of the said recognizance, if, &c. And now here at this day, comes the said *A. B.* by *I. K.* his attorney, and offers himself, on the fourth day, against the said *E. F.* and *G. II.* in the plea aforesaid; and they, although on that day solemnly demanded, come not, nor doth either of them come; and the sheriff, to wit, — sheriff of *Middlesex* aforesaid, now here returns, that by — and —, honest and lawful men of his bailiwick, he hath made known to the said *E. F.* and *G. II.* that they be here, on the day in the said writ mentioned, to shew cause as by the said writ they are required, and as the said sheriff is therein commanded: And hereupon the said *A. B.* prays execution against the said *E. F.*

E. F. and *G. H.* that is to say, against the said *E. F.* of the CHAP. XL. said — *l.* by him in form aforesaid acknowledged, and against the said *G. H.* of the said — *l.* by him in form aforesaid acknowledged, according to the form and effect of the said recognizance, to be adjudged to him, &c.: Therefore it is considered, that the said *A. B.* have execution against the said *E. F.* and *G. H.* that is to say, against the said *E. F.* of the said — *l.* by him in form aforesaid acknowledged, and against the said *G. H.* of the said — *l.* by him in form aforesaid acknowledged, according to the form and effect of the said recognizance, by the default of the said *E. F.* and *G. H.* &c.

Judgment
signed, (&c.)

Middlesex, to wit. The sheriff was commanded, &c. (as in the last, to the end of the recital of the first writ of *scire facias*, and then as follows:) And now here at this day, comes the said *A. B.* by *J. K.* his attorney, and offers himself, on the fourth day, against the said *E. F.* and *G. H.* in the plea aforesaid; and they, although on that day solemnly demanded, come not, nor doth either of them come; and the sheriff, to wit, — sheriff of *Middlesex* aforesaid, now here returns, that the said *E. F.* and *G. H.* have not, nor hath either of them, any thing, &c. nor are they, nor is either of them, found, &c.: Therefore, as before, the said sheriff is commanded, that by honest, &c. he make known to the said *E. F.* and *G. H.* that they be here on —, to shew in form aforesaid, if, &c.: At which day, comes here the said *A. B.* by his said attorney, and offers himself, on the fourth day, against the said *E. F.* and *G. H.* in the plea aforesaid; and the said *E. F.* and *G. H.* although on that day solemnly demanded, come not, nor doth either of them come; and the said sheriff, as before, now here returns, that the said *E. F.* and *G. H.* have not, nor hath either of them, any thing, &c. nor are they, nor is either of them, found, &c. And thereupon the said *A. B.* prays execution, &c. (is in the last.)

(§ 23.)
The like, on
two *scire fa-*
 returned
 in the
s. m. term, in
C. F.

In this case, the first writ of *scire facias* is entered on a roll of the term in which it was returnable, with the sheriff's return thereto, and the award of the second writ; and in the following term, the proceedings are entered over again, with the sheriff's return to the second writ, and the prayer and award

(§ 24.)
The like, where
the writs are of
different terms.

CHAP. XL. award of execution, on a roll of that term, beginning with an *alias prout patet*, as follows :

Middlesex, to wit. Elsewhere, as it appeareth of the term of — last past, on the — roll, it is thus contained.

(§ 25.) *Middlesex*, to wit. The sheriff was commanded, whereas
 The like
 C. P. o. a re- *E. F.* of — and *G. H.* of — on the — day
 cognizance of
 bail taken be- the year of our Lord 18— came before the honourable Sir
 fore the chief- *Vicary Gibbs* knight, chief-justice of the Bench, at his cham-
 justice, on er- bers in *Serjeant's Inn, Chancery lane, London*, and acknow-
 ror from the- ledged, and each of them separately did acknowledge him-
 Common Pleas; self to owe to *A. B.* the sum of —*l.* to be levied of their
 to the King's lands and chattels, and of the lands and chattels of each of
 Bench. them, to the use of the said *A. B.* ; which said recognizance,
 in form aforesaid taken, the said chief-justice afterwards, to
 wit, on, (&c.) in — term, in the — year of the reign of
 the lord the now king, delivered with his own proper hands
 into his majesty's court of the Bench here, to wit, at *West-*
minster in the county of *Middlesex*, to be enrolled, and the
 same was then and there, before the said Sir *Vicary Gibbs*
 and his brethren, then his said majesty's justices of the Bench,
 enrolled of record in the same court ; as by the record thereof,
 remaining in his said majesty's said court, it manifestly ap-
 peared ; which said —*l.* and —*l.* the said *E. F.* and
G. H. had not, nor had either of them, paid to the said *A. B.*
 as his said majesty was informed by the said *A. B.* and be-
 cause, &c. that by honest, &c. he make known to the said *E. F.*
 and *G. H.* that they be here, on —, to shew if they had
 or knew, or if either of them had or knew, of any thing to
 say for themselves or himself, that is to say, the said *E. F.*
 why the said —*l.* by him in form aforesaid acknowledged,
 should not be levied of his lands and chattels, and the said
G. H. why the said —*l.* by him in form aforesaid acknow-
 ledged, should not be levied of his lands and chattels, and
 rendered to the said *A. B.* according to the form of the said
 recognizance, if, &c. And now, at this day, the said *A. B.*
 cometh here, by — his attorney, and offereth himself on the
 fourth day against the said *E. F.* and *G. H.* in the plea afore-
 said ; and the said *E. F.* and *G. H.* although solemnly called,
 come not, nor doth either of them come ; and the said sheriff
 to wit, — and — sheriff of the said county, now here
 returneth;

returneth, that the said *E. F.* and *G. H.* have not, nor hath either of them, any thing in his bailiwick, whereby he can give them or either of them notice, as by the said writ he is commanded, nor are they nor is either of them found in the same: Therefore, as before, the sheriff is commanded, that by honest, &c. he make known to the said *E. F.* and *G. H.* that they be here, in —, to shew in form aforesaid, if, &c. At which day, the said *A. B.* cometh here by his attorney aforesaid, and offers himself on the fourth day against the said *E. F.* and *G. H.* in the plea aforesaid; and the said *E. F.* and *G. H.* although solemnly called, come not, nor doth either of them come; and the said sheriff, as before, now here returneth, that the said *E. F.* and *G. H.* have not, nor hath either of them, any thing in his bailiwick, whereby he can give them or either of them notice, as by the said last-mentioned writ he is commanded, nor are they nor is either of them found in the same: And hereupon the said *A. B.* prays execution against the said *E. F.* and *G. H.* that is to say, against the said *E. F.* of the said —*l.* by him in form aforesaid acknowledged, and against the said *G. H.* of the said —*l.* by him in form aforesaid acknowledged, according to the form of the said recognizance, to be adjudged to him, &c. Therefore it is considered, &c. (as before, § 21.)

And the said *E. F.* and *G. H.* say that they cannot deny the action of the said *A. B.* nor but that execution ought to be adjudged to him against them the said *E. F.* and *G. H.* that is to say, against the said *E. F.* of the said sum of —*l.* by him in form aforesaid acknowledged, and against the said *G. H.* of the said sum of —*l.* by him in form aforesaid acknowledged, according to the force form and effect of the said recognizance, together with his costs and charges by him about his suit in this behalf laid out; and hereupon the said *A. B.* prays judgment, and that execution may be adjudged to him in form aforesaid: Therefore it is considered, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* that is to say, against the said *E. F.* of the said sum of —*l.* by him in form aforesaid acknowledged, and against the said *G. H.* of the said sum of —*l.* by him in form aforesaid acknowledged, according to the force form and effect

(§ 26.)
The like, as a
cognovit by the
bail.

Judgment
signed, (&c.)

CHAP. XL. of the said recognizance: It is also considered by his majesty's court here, that the said *A. B.* do recover against the said *E. F.* and *G. H.* — *L.* for his costs and charges by him laid out about his suit in this behalf, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; and the said *E. F.* and *G. H.* in mercy, &c.

Mercy.

(§ 27.)
Entry on
docket-roll, in
C. P.

Entry of *scire facias* (or "of first and second *scire facias*") against bail, with award of execution.

Middlesex. A. B. plaintiff. } *Roll*
E. F. and *G. H.* bail of *C. D.* defendant. }

(§ 28.)
Note of ap-
pearance, in
K. B.

A. B. against *E. F.* and another, bail of *C. D.*
I appear for the bail, upon the writ of *scire facias* issued in this cause.

Your's, &c.

L. M. attorney.

To Mr. *I. K.*

(§ 29.)
Prove for ap-
pearance, in
C. P.

— to wit. Appearance for *E. F.* and *G. H.* bail of *C. D.* at the suit of *A. B.* to a *scire facias*, (or "*alias scire facias*,"") returnable on —.

L. M. attorney.

— 18—.

(§ 30.)
Declaration in
scire facias a-
gainst bail, up-
on the return
of *scire facias*, in
K. B.

— term, in the — year of the reign of king
George the Third.

Middlesex, to wit. Our lord the king sent to his sheriff of *Middlesex*, his writ close in these words, that is to say: *George* the Third, &c. (copy the *scire facias*, and proceed as before, p. 506. to the end of the sheriff's return, and conclude as follows): And the said *E. F.* and *G. H.* being solemnly called, come by *L. M.* their attorney; and hereupon the said *A. B.* prays that execution may be adjudged to him against the said *E. F.* and *G. H.* of the damages (or "debt and damages") aforesaid, according to the force form and effect of the said recognizance, &c.

(§ 31.)
The like, upon
two writs re-
turned, in
K. B.

Middlesex, to wit. Our lord the king sent to his sheriff of *Middlesex*, his writ close in these words, that is to say: *George* the Third, &c. (copy the first *scire facias* to the end, and proceed

ceed as follows) : At which day, before our said lord the king CHAP. XL.
 at *Westminster*, came the said *A. B.* in his proper person ;
 and the sheriff, to wit, — sheriff of *Middlesex* aforesaid,
 thereupon returned to our said lord the king, that the said
E. F. and *G. H.* had not, nor had either of them, any thing
 in his bailiwick, where or by which he could give them or
 either of them notice, as by the said writ he was commanded,
 nor were they the said *E. F.* and *G. H.* nor was either of
 them found in the same ; and the said *E. F.* and *G. H.* came
 not, nor did either of them come : Therefore, as before, it
 was commanded to the sheriff, that by honest and lawful men
 of his bailiwick, he should make known to the said *E. F.* and
G. H. that they should be before our said lord the king at
Westminster, on — next after —, to shew in form aforesaid,
 if, &c. and further, &c. ; the same day was given to the
 said *A. B.* there, &c. At which day, before our said lord the
 king at *Westminster*, comes the said *A. B.* in his proper per-
 son ; and the said sheriff of *Middlesex*, as before, returns, that
 the said *E. F.* and *G. H.* have not, nor hath either of them,
 any thing in his bailiwick, whereby he can give them or either
 of them notice, as by the said last-mentioned writ he is com-
 manded, nor are they the said *E. F.* and *G. H.* nor is either
 of them, found in the same ; and the said *E. F.* and *G. H.*
 being solemnly demanded, come by *L. M.* their attorney ; and
 hereupon the said *A. B.* prays that execution may be ad-
 judged to him against the said *E. F.* and *G. H.* of the da-
 mages (or “ debt and damages”) aforesaid, according to the
 force form and effect of the said recognizance, &c. •

(After the second return of *nihil*, proceed as follows :) (§ 32.)
 And the said *E. F.* and *G. H.* being solemnly demanded, The like, with
 come by *L. M.* their attorney ; and hereupon the said *A. B.* a *noble prosequi*
 says, that he will not further prosecute the said writ of *scire* as to one of the
facias against the said *E. F.* in that behalf ; and he prays that book, and prays
 execution may be adjudged to him against the said *G. H.* of execution
 the damages (or “ debt and damages”) aforesaid, (or by *ori-* not the
ginal, in K. B. or C. P. “ that execution may be adjudged
 to him against the said *G. H.* of the said — by him in
 form aforesaid acknowledged,”) according to the force form
 and effect of the said recognizance, &c.

CHAP. XL. In the Common Pleas.

(§ 33.)
The like, upon
the return of
scire feci, in
C. P.

— term, in the — year of the reign of king
George the third.

Middlesex, to wit. The sheriff was commanded, &c. (as before, p. 508. to the end of the recital of the writ, and then as follows.)

And now at this day, comes here the said *A. B.* by *I. K.* his attorney, and offers himself, on the fourth day, against the said *E. F.* and *G. H.* of the plea aforesaid; and the sheriff, to wit, — sheriff of *Middlesex* aforesaid, now here returns, that he hath made known to the said *E. F.* and *G. H.* that they be here, on the day in the said writ mentioned, to shew as by the said writ they are commanded; and the said *E. F.* and *G. H.* on the same day, being solemnly demanded, come by *L. M.* their attorney; and hereupon the said *A. B.* prays execution against the said *E. F.* and *G. H.* that is to say, against the said *E. F.* of the said — *l.* by him in form aforesaid acknowledged, and against the said *G. H.* of the said — *l.* by him in form aforesaid acknowledged, according to the form and effect of the said recognizance, to be adjudged to him, &c.

(§ 34.)
The like, upon
two *nilis* re-
turned, in C. P.

In the Common Pleas.

— term, in the — year of the reign of king
George the third.

Middlesex, to wit. The sheriff was commanded, &c. (reciting the first writ of *scire facias* to the end, as before, p. 508. and then as follows :) And now at this day, comes here the said *A. B.* by *I. K.* his attorney, and offers himself, on the fourth day, against the said *E. F.* and *G. H.* of the plea aforesaid; and they, although on that day solemnly demanded, come not, nor doth either of them come; and the sheriff, to wit, — sheriff of *Middlesex* aforesaid, now here returns, that the said *E. F.* and *G. H.* have not, nor hath either of them, any thing, &c. nor are they, nor is either of them, found, &c. : Therefore, as before, the said sheriff is commanded, that by honest, &c. he make known to the said *E. F.* and *G. H.* that they be here, on —, to shew in form aforesaid, if, &c. : At which day, comes here the said *A. B.* by his said attorney, and offers himself, on the fourth day, against the

the said *E. F.* and *G. H.* of the plea aforesaid; and the said CHAP. XI.
sheriff, as before, now here returns, that the said *E. F.* and
G. H. have not, nor hath either of them, any thing, &c. nor
are they, nor is either of them, found, &c.; and the said *E. F.*
and *G. H.* on the same day, being solemnly demanded, come
by *L. M.* their attorney; and hereupon the said *A. B.* prays
execution, &c. (as in the last.)

— term, in the — year of the reign of king (§ 35.)
George the third. Issue in *scire*
facias against
bail, in K. B.

Middlesex, to wit. Our lord the king sent to his sheriff of
Middlesex, his writ close in these words, that is to say: *George*
the Third, &c. (here copy the writ, and declaration in *scire*
facias.)

And the said *E. F.* and *G. H.* by *L. M.* their attorney, come
and say that the said *A. B.* ought not to have execution, &c.
(here copy the pleadings, beginning each with a new line,
and conclude with the award of the *venire facias*, or by giving
a day to produce the record, on an issue of *nul tiel record*, in
the common form.)

As yet of — term, in the — year of the reign of king (§ 36.)
George the third. Witness *Edward* Lord *Ellenbo-* Entry of issue,
rough. and award of
execution, &c.
after verdict,
in K. B.

Middlesex, to wit. *A. B.* puts in his place *I. K.* his attorney,
against *E. F.* and *G. H.* bail of *C. D.* in a plea of *debt* on
scire facias.

Middlesex, to wit. The said *E. F.* and *G. H.* put in their
place *L. M.* their attorney, at the suit of the said *A. B.* in the
plea aforesaid.

Middlesex, to wit. Our lord the king sent to his sheriff of
Middlesex, his writ close in these words, to wit: *George* the
Third, &c. (here copy the issue, to the end of the award of
the *venire facias*, and proceed as follows:) Afterwards the
process thereof is continued, &c. (as before, p. 381. conclu-
ding as follows:) Therefore it is considered, that the said Judgment
A. B. have his execution against the said *E. F.* and *G. H.* signed, (&c.)
of the damages (or “debt and damages”) aforesaid, accord-
ing to the force form and effect of the said recognizance, &c.:
It is also considered by his majesty’s court here, that the said

CHAP. XL. *A. B.* do recover against the said *E. F.* and *G. H.* —*l.* for his costs and charges by him laid out about his suit in this behalf, on occasion of the said *E. F.* and *G. H.* having pleaded to the said writ of *scire facias*, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent, according to the form of the statute in such case made and provided; and the said *E. F.* and *G. H.* in mercy, &c.

(§ 37.) *George the Third, (&c.)* To the sheriff of *Middlesex*, greeting: We command you, that of the goods and chattels of *E. F.* and *G. H.* the bail of *C. D.* in your bailiwick, you cause to be made —*l.* which *A. B.* lately in our court before us at *Westminster*, recovered against the said *C. D.* for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* (or if in debt, “a certain debt of —*l.* which *A. B.* lately in our court before us at *Westminster*, recovered against the said *C. D.* and also —*l.* which in our same court before us, were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detaining the said debt,”) as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: And whereupon it is considered in our same court before us, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* of the damages (or “debt and damages”) aforesaid, according to the force form and effect of a certain recognizance by them the said *E. F.* and *G. H.* acknowledged in our said court before us, for the said *C. D.* at the suit of the said *A. B.* in the plea aforesaid, by the default of the said *E. F.* and *G. H.* as likewise appears to us of record: And have that money before us at *Westminster*, on — next after —, to be rendered to the said *A. B.* for his damages (or “debt and damages”) aforesaid; and have there then this writ. Witness *Edward* Lord *Ellenborough*, (&c.)

(§ 37.)
Fieri facias
against bail to
the action, in
the King's
Bench by bill,
after default on
scire facias.

(As before, to the end of the award of execution, without stating it to be by default, and then as follows:) and also — *l.* which in our same court before us, were adjudged to the said *A. B.* for his damages costs and charges which he hath been put unto, on occasion of the said *E. F.* and *G. H.* having pleaded to our writ of *scire facias*, sued out against them, at the suit of the said *A. B.* in that behalf; whereof the said *E. F.* and *G. H.* are convicted, as also appears to us of record: And have the said monies before us at *Westminster*, on — next after —, to be rendered to the said *A. B.* for his damages, (or “debt and damages,”) costs and charges aforesaid; and have there then this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of — greeting: Whereas we lately commanded our sheriff of *Middlesex*, that of the goods and chattels of *E. F.* and *G. H.* the bail of *C. D.* in his bailiwick, he should cause to be made — *l.* (or, “a certain debt of — *l.*”) &c. (reciting the *fiari facias*, to the end): And our said sheriff of *Middlesex* at that day returned to us, that the said *E. F.* and *G. H.* had not, nor had either of them, any goods or chattels in his bailiwick, whereof he could cause to be made the damages (or “debt and damages,”) aforesaid, or any part thereof; whereupon on the behalf of the said *A. B.* it is sufficiently testified in our said court before us, that the said *E. F.* and *G. H.* have sufficient goods and chattels in your bailiwick, whereof you may cause to be made the damages (or, “debt and damages,”) aforesaid, and every part thereof: Therefore we command you, that of the goods and chattels of the said *E. F.* and *G. H.* in your bailiwick, you cause to be made the said — *l.* (or “the said debt of — *l.* and the said — *l.*”) the damages aforesaid; and that you have that money before us at *Westminster*, on — next after — to be rendered to the said *A. B.* for his damages (or “debt and damages,”) aforesaid; and have there then this writ. Witness, (&c.)

George the Third, (&c.) To the right reverend father in God *Shute* by divine providence lord bishop of *Durham*, or to his chancellor there, greeting: Whereas we lately commanded our sheriff of —, that of the goods and chattels of *E. F.* in his bailiwick, he should cause to be made — *l.* and of the

(§ 38.)
The like, after
plea to *scire*
factus.

(§ 39.)
Testatum fieri
facias against
bail to the ac-
tion, in the
King's Bench,
by *bill*.

(§ 40.)
The like, to a
county-pala-
tine, against
bail by *original*,
taken before a
commissioner,
in K. B.

CHAP. XL. the goods and chattels of *G. II.* in his bailiwick, he should cause to be made — *l.* and that he should have the said monies before us, on a certain day now past, wheresoever we should then be in *England*, to be rendered to *A. B.* according to the force form and effect of a certain recognizance, by them the said *E. F.* and *G. II.* respectively acknowledged to the said *A. B.* as bail of and for *C. D.* before — gentleman, a commissioner duly empowered to take and receive all and every such recognizance or recognizances of bail or bails, as any person or persons should be willing or desirous to acknowledge or make before him, in any action or suit depending in our court before us, according to the form of the statute in such case made and provided; as by the record of the said recognizance, which was afterwards duly transmitted by the said — so being such commissioner as aforesaid, to the honourable — then and still being one of the justices of our said court before us, at his chambers, situate in *Serjeant's Inn, Chancery Lane, London*, and was by him the said justice produced and recorded in the same court, and is now there remaining, appears to us of record; and whereupon it was considered in our same court before us at *Westminster*, that the said *A. B.* should have his execution thereupon against the said *E. F.* and *G. II.* respectively, of the said several sums of — *l.* and — *l.* by them in form aforesaid respectively acknowledged, by the default of them the said *E. F.* and *G. H.* as likewise appears to us of record: And our said sheriff of *Middlesex* at that day returned to us, that the said *E. F.* and *G. II.* had not, nor had either of them, any goods or chattels in his bailiwick, whereof he could cause to be made the said several sums of — *l.* and — *l.* or either of them, or any part thereof: Whereupon, on the behalf of the said *A. B.* it is sufficiently testified in our said court before us, that the said *E. F.* and *G. II.* have sufficient goods and chattels in our said county-palatine of *Durham*, whereof the said several sums of — *l.* and — *l.* and each of them, and every part thereof, may be fully made: Therefore we command you, that by our writ, under the seal of our said county-palatine of *Durham* to be duly made, and directed to the sheriff of the same county-palatine, you command the said sheriff, that of the goods and chattels of the said *E. F.* and *G. II.* in his bailiwick, he cause to be made the said several

veral sums of —*l.* and —*l.* in form aforesaid acknowledged — CHAP. XL.
ed, so that you may have the said monies before us on —,
wheresoever we shall then be in *England*, to be rendered to the
said *A. B.* according to the form and effect of the recogni-
zance aforesaid ; and have there this writ. Witness, (&c.)

George the Third, (&c.) To our chamberlain of our coun-
ty-palatine of *Chester*, or his deputy, greeting : Whereas by
our writ we lately commanded our chancellor of our county-
palatine of *Lancaster*, that by our writ, under the seal of our
said county-palatine to be duly made, and directed to the
sheriff of the same county, he should command the said
sheriff, that of the goods and chattels of *E. F.* and *G. H.* the
bail of *C. D.* in his bailiwick, he should cause to be made
—*l.* (or, “ a certain debt of —*l.*”) &c. (reciting the for-
mer *testatum fieri facias*, to the end) : And our said chan-
cellor of our said county-palatine of *Lancaster*, at that day
returned to us, that by another writ, under the seal of our
same county-palatine duly made, and directed to the sheriff
of the same county, he had commanded the said sheriff, as in
the said first-mentioned writ he was commanded ; which said
sheriff had thereupon returned, that the said *E. F.* and *G. H.*
had not, nor had either of them, any goods or chattels in
his bailiwick, whereof he could cause to be made the da-
mages (or “ debt and damages”) aforesaid, or any part there-
of : Whereupon, on the behalf of the said *A. B.* it is sufficiently
testified in our said court before us, that the said *E. F.* and
G. H. have sufficient goods and chattels in our said county-
palatine of *Chester*, whereof the damages (or “ debt and
damages”) aforesaid, and every part thereof, may be fully
made . Therefore we command you, that by our writ, under
the seal of our said county-palatine of *Chester* to be duly
made, and directed to the sheriff of the same county-palatine,
you command the said sheriff, that of the goods and chattels
of the said *E. F.* and *G. H.* in his bailiwick, he cause to
be made the damages (or “ debt and damages”) aforesaid, so
that you may have that money before us at *Westminster*, on
— next after —, to be rendered to the said *A. B.* for his da-
mages (or “ debt and damages”) aforesaid ; and have there
then this writ. Witness, (&c.)

(§ 41.)
The like, from
one county-
palatine to
another, after
a former *testa-
tum*, by *bill* in
K. B.

CHAP. XL. *George the Third, (&c.) To the sheriff of Middlesex, greeting:* We command you, that of the goods and chattels of *E. F.* of — one of the bail of *C. D.* in your bailiwick, you cause to be made —*l.* and of the goods and chattels of *G. H.* — another of the bail of the said *C. D.* in your bailiwick, you cause to be made —*l.* which the said *E. F.* and *G. H.* heretofore, to wit, in — term, in the — year of our reign, in our court, before Sir *Vicary Gibbs* knight and his companions, then our justices of the Bench at *Westminster*, severally acknowledged to owe to *A. B.* to be made of their and each of their lands and chattels, and to the use and behoof of the said *A. B.* be levied, in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of —*l.* (or in *debt*, “in a certain plea of debt on demand for —*l.*”) against the said *C. D.* in our same court of the Bench prosecuted; whereof the said *C. D.* was convicted, as by the record and proceedings thereof, in our said court before our justices remaining, manifestly appears: And whereupon it is considered in our same court, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* of the said several sums of —*l.* and —*l.* by them in form aforesaid acknowledged, by the default of them the said *E. F.* and *G. H.*; whereof the said *E. F.* and *G. H.* are convicted: And have those monies before our justices at *Westminster*, on —, to be rendered to the said *A. B.* according to the form and effect of the said recognizance; and have there this writ. Witness Sir *Vicary Gibbs* knight, (&c.)

(8*)
The Jk
an award o
execut.
moved
King's
by writ
ror.

George the Third, (&c.) To the sheriff of Middlesex, greeting: We command you, that of the goods and chattels of *E. F.* of — one of the bail of *C. D.* in your bailiwick, you cause to be made —*l.* and of the goods and chattels of *G. H.* of — another of the bail of the said *C. D.* in your bailiwick, you cause to be made —*l.*; and have the said monies before us, on — wheresoever, (&c.) to be rendered to *A. B.* according to the form and effect of the adjudication of execution upon a certain recognizance, by them the said *E. F.* and *G. H.* respectively acknowledged to the said *A. B.* for the said *C. D.* in our court, before Sir *Vicary Gibbs* knight and his companions, our justices of the Bench

Bench at *Westminster*; as by the record and proceedings of CHAP. XL. the adjudication of execution thereupon, which by virtue of our writ for correcting error, we lately caused to be brought into our court before us, appears to us of record: And whereupon, in our said court before us at *Westminster*, it is considered, that the said *A. B.* have his execution thereupon against the said *E. F.* and *G. H.* of the said several sums of —*l.* and —*l.* by them in form aforesaid respectively acknowledged, to be levied of their respective lands and chattels, by the default of them the said *E. F.* and *G. H.* as also appears to us of record; and have there this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of *Middlesex*, greet- (§ 11.)
ing: We command you, that you omit not by reason of any The like, in the Exchequer.
liberty of your county, but that you enter the same, and of the goods and chattels of *E. F.* and *G. H.* in your bailiwick, you cause to be made —*l.* which *A. B.* our debtor, lately in our court before the barons of our Exchequer at *Westminster*, recovered against *C. D.* for his damages which he had sustained, by reason of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* whereof the said *C. D.* is convicted; and whereupon it is considered in our same court, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* for the damages aforesaid, according to the form of their recognizance taken in our said court, by the default of them the said *E. F.* and *G. H.* as by inspecting the rolls of our said Exchequer, appears to us: And have that money before the barons of our said Exchequer at *Westminster*, on — next coming, to be then and there paid to the said *A. B.* or his attorney in this behalf; and have there this writ. Witness Sir *Alexander Thomson* knight, (&c.)

George the Third, (&c.) To the sheriff of *Middlesex*, greet- (§ 15.)
ing: We command you, that of the goods and chattels of The like, against bail in error, on a recognizance taken before the chief-justice of the Common Pleas, and removed into the King's Bench.
E. F. of — and *G. H.* of — the bail of *C. D.* in your bailiwick, you cause to be made —*l.*; and have that money before us, on — wheresoever we shall then be in *England*, to be rendered to *A. B.* according to the form and effect of a certain

CHAP. XL. certain recognizance, by them the said *E. F.* and *G. H.* respectively acknowledged to the said *A. B.* for the said *C. D.* upon our certain writ of error, in our court, before Sir *Vicary Gibbs* knight, our chief-justice of the Bench, at his chambers situate in *Serjeant's Inn, Chancery Lane, London*; as by the record thereof, which we lately for certain reasons caused to be brought into our court before us at *Westminster*, appears to us of record: And whereupon it is considered, in our same court before us at *Westminster* aforesaid, that the said *A. B.* have his execution thereupon against the said *E. F.* and *G. H.* for the said — *l.* by the default of them the said *E. F.* and *G. H.* as also appears to us of record; and have there this writ. Witness, (&c.)

(¶ 46.)
Testatum fieri
facias in a si-
 milar case,
 where the re-
 cognizance is
 not removed.

George the Third, (&c.) To the sheriff of — greeting:
 Whereas we lately commanded our sheriff of *Middlesex*, that of the goods and chattels of *E. F.* of — one of the bail of *C. D.* in his bailiwick, he should cause to be made — *l.* and of the goods and chattels of *G. H.* of — another of the bail of the said *C. D.* in his bailiwick, he should cause to be made — *l.*; and that he should have the said monies before our justices at *Westminster*, at a certain day now past, to be rendered to *A. B.* according to the form and effect of the adjudication of execution upon a certain recognizance, by them the said *E. F.* and *G. H.* respectively acknowledged to the said *A. B.* for the said *C. D.* upon our certain writ of error, in our court of the Bench, before the honourable Sir *Vicary Gibbs* knight, our chief-justice of the Bench, at his chambers situate in *Serjeant's Inn, Chancery Lane, London*; Which said recognizance, in form aforesaid taken, our said chief-justice afterwards delivered with his own proper hands, into our said court of the Bench aforesaid, to wit, at *Westminster* in the county of *Middlesex* aforesaid, to be enrolled, and the same was accordingly, before the said Sir *Vicary Gibbs* and his companions, then our justices of the said Bench, enrolled of record in the same court; as by the record thereof, remaining in our said court, manifestly appears: And whereupon it is considered, in our same court of the Bench aforesaid, that the said *A. B.* have his execution thereupon against the said *E. F.* for the said — *l.* and
 against

against the said *G. H.* for the said — *l.* by the de- CHAP. XL.
 fault of them the said *E. F.* and *G. H.* as also appears of
 record in our said court : And our said sheriff of *Middlesex* at
 that day returned to our said justices at *Westminster* afore-
 said, that the said *E. F.* and *G. H.* had not, nor had either of
 them, any goods or chattels in his bailiwick, whereof he could
 cause to be made the aforesaid several sums of money, or any
 part thereof : Whereupon, on the behalf of the said *A. B.* it
 is sufficiently testified in our said court of the Bench, that
 the said *E. F.* and *G. H.* have sufficient goods and chattels
 in your bailiwick, whereof you may cause to be made the
 aforesaid several sums of money, and every part thereof :
 Therefore we command you, that of the goods and chattels
 of the said *E. F.* in your bailiwick, you cause to be made the
 said — *l.* and of the goods and chattels of the said *G. H.* in
 your bailiwick, you cause to be made the said — *l.* ; and that
 you have the said monies before our said justices at *Westminster*,
 in —, to be rendered to the said *A. B.* according to the
 form and effect of the said adjudication of execution, upon
 the said recognizance ; and have there this writ. Witness,
 (&c.)

George the Third, (&c.) To the sheriff of *Middlesex*, (\$ 47.)
 greeting : We command you, that of the goods and chattels *Fieri facias*
 of *E. F.* and *G. H.* the bail of *C. D.* in your bailiwick, you against bail in
 cause to be made — *l.* ; and have that money before us at error, on a
Westminster, on — next after —, to be rendered to *A. B.* recognizance
 according to the form and effect of a certain recognizance, by taken in the
 them the said *E. F.* and *G. H.* acknowledged to the said *A. B.* King's Bench.
 for the said *C. D.* upon our certain writ of error, in our
 said court before us at *Westminster* aforesaid : And whereupon
 it is considered, in our said court before us, that the said *A. B.*
 have his execution thereupon against the said *E. F.* and *G. H.*
 by the default of them the said *E. F.* and *G. H.* as appears
 to us of record ; and have there this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of *Middlesex*, greet- (\$ 48.)
 ing : We command you, that you take *E. F.* and *G. H.* the *Capias ad satis-*
 bail of *C. D.* if they be found in your bailiwick, and them *faciendi* n a-
 safely keep, so that you may have their bodies before us at gainst bail to
Westminster, on — next after —, to satisfy *A. B.* — *l.* the action, in
 which the King's
Bench by bill,
after default on
scire facias.

CHAP. XL. which the said *A. B.* lately in our court before us, recovered against the said *C. D.* for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* (or if in *debt*, “a certain debt of ——*l.* which *A. B.* lately in our court before us at *Westminster*, recovered against the said *C. D.* and also ——*l.* which in our same court before us, were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detaining of the said debt,”) as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: And whereupon it is considered, in our same court before us, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* for the damages (or “debt and damages”) aforesaid, according to the force form and effect of a certain recognizance, by them the said *E. F.* and *G. H.* acknowledged in our said court before us, for the said *C. D.* at the suit of the said *A. B.* in the plea aforesaid, by the default of the said *E. F.* and *G. H.* as also appears to us of record; and have there then this writ. Witness *Edward* Lord *Ellenborough*, (&c.)

(§ 49)
The lue. in the
Exchequer.

George the Third, (&c.) To the sheriff of *Middlesex*, greeting:
We command you, that you omit not by reason of any liberty of your county, but that you enter the same, and take *E. F.* and *G. H.* wheresoever they shall be found in your bailiwick, and them safely keep, so that you may have their bodies before the barons of our Exchequer at *Westminster*, on — next coming, to satisfy *A. B.* our debtor, of ——*l.* which the said *A. B.* lately in our court, before the barons of our said Exchequer at *Westminster*, recovered against *C. D.* for his damages which he had sustained, by reason of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.*; whereof the said *C. D.* is convicted: And whereupon it is considered, in our same court, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* according to the form of their recognizance taken in our said court, by the default of them the said *E. F.* and *G. H.* as by inspecting the rolls of our said Exchequer, appears to us; and have there this writ. Witness Sir *Alexander Thomson* knight, (&c.)

(As

(As in the two last, to the end of the award of execution, **CHAP. XL.** without stating it to be by default, and then as follows:) (§ 50.) The like, after
and also to satisfy the said *A. B.* — *l.* for his damages costs plea
and charges which he hath been put unto, on occasion of the facias
said *E. F.* and *G. H.* having pleaded to our writ of *scire*
facias, sued out against them, at the suit of the said *A. B.*
in that behalf; whereof the said *E. F.* and *G. H.* are con-
victed, as also appears to us of record; (or, in the Exchequer,
“as by inspecting the rolls of our said Exchequer, also appears
to us;”) and have there then (or, in the Exchequer, “have
there”) this writ. Witness, (§c.)

George the Third, (§c.) To the sheriff of — greeting: (§ 51.)
Whereas we lately commanded our sheriff of *Middlesex*, that Testatum cap
he should take *E. F.* and *G. H.* the bail of *C. D.* if they ad facien-
should be found in his bailiwick, and them safely keep, so that dan facien-
he might have their bodies before us at *Westminster*, on — next by the ac
after —, to satisfy *A. B.* — *l.* (or “a certain debt of the
— *l.*”) &c (reciting the *capias ad satisfaciendum*, to the Pench
end:) And our said sheriff of *Middlesex* at that day returned by bid
to us, that the said *E. F.* and *G. H.* were not, nor was either
of them, found in his bailiwick; whereupon on the behalf
of the said *A. B.* it is sufficiently testified in our same court
before us, that the said *E. F.* and *G. H.* lurk and secrete
themselves in your county: Therefore we command you,
that you take the said *E. F.* and *G. H.* if they be found in
your bailiwick, and them safely keep, so that you may have
their bodies before us at *Westminster*, on — next after
—, to satisfy the said *A. B.* his damages (or “debt and
damages”) aforesaid; and have there then this writ. Wit-
ness, (§c.)

George the Third, (§c.) To the sheriff of — greeting: (§ 52.)
Whereas we lately commanded our sheriff of —, that he The like by
should take *E. F.* and *G. H.* the bail of *C. D.* if they original, after
should be found in his bailiwick, and them safely keep, so except an a-
that he might have their bodies before us, on a certain day ward, on a
now past, wheresoever we should be in *England*, to satisfy t one fa-
A. B. the sum of — *l.* each, that is to say, for the said cas, m k. B.
E. F. to satisfy the said *A. B.* the said sum of — *l.* and for
the said *G. H.* to satisfy the said *A. B.* the like sum of — *l.*
according

CHAP. XL. according to the force form and effect of a certain recognizance, by them the said *E. F.* and *G. H.* acknowledged to the said *A. B.* as the bail of and for the said *C. D.* in our court before us, as appeared to us of record; and whereupon it had been considered in our said court before us, that the said *A. B.* should have his execution thereupon against the said *E. F.* and *G. H.* that is to say, against the said *E. F.* for the said sum of —*l.* by him in form aforesaid acknowledged, and against the said *G. H.* for the said sum of —*l.* by him in like manner acknowledged, according to the force form and effect of the said recognizance, and of a certain award of execution thereupon, in our said court before us, by the default of them the said *E. F.* and *G. H.* as also appeared to us of record: And our said sheriff of — at that day returned to us, that the said *E. F.* and *G. H.* were not, nor was either of them, found in his bailiwick; whereupon, on the behalf of the said *A. B.* it is sufficiently testified in our same court before us, that the said *E. F.* and *G. H.* lurk and secrete themselves in your county: Therefore we command you, that you take the said *E. F.* and *G. H.* if they be found in your bailiwick, and them safely keep, so that you may have their bodies before us, on — wheresoever we shall then be in *England*, to satisfy the said *A. B.* the said sum of —*l.* each as aforesaid; and have there this writ. Witness, (&c.)

(§ 53.)
The like, after
one of the bail
had been taken,
for taking the
other.

George the Third, (&c.) To the sheriff of — greeting: Whereas we lately commanded our sheriff of —, &c. (as in the last writ, to the end of the return of *non est Inventus*, and then as follows:) Whereupon, on the behalf of the said *A. B.* it was sufficiently testified in our same court before us, that the said *E. F.* and *G. H.* lurked and secreted themselves in the county of —: Therefore, by our writ, we lately commanded our sheriff of —, that he should take the said *E. F.* and *G. H.* if they should be found in his bailiwick, and them safely keep, so that he might have their bodies before us, on — now last past, wheresoever we should then be in *England*, to satisfy the said *A. B.* the said sum of —*l.* each as aforesaid; and that he should have there that writ: And our said sheriff of — at that day returned to us, upon the said last-mentioned writ, that he had
taken

taken the said *E. F.* whose body he had ready; and that the CHAP. XL.
said *G. H.* was not found in his bailiwick: Whereupon, on
the behalf of the said *A. B.* it is sufficiently testified in our
same court before us, that the said *G. H.* lurks and secretes
himself in your county: Therefore we command you, that you
take the said *G. H.* if he be found in your bailiwick, and him
safely keep, so that you may have his body before us, in —
wheresoever we shall then be in *England*, to satisfy the said
A. B. the said sum of —*l.*, by him in form aforesaid ac-
knowledged; and have there this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of *Middlesex*, (§ 54.)
greeting: We command you, that you take *E. F.* and *G. H.* Capias ad satis-
faciendum a-
the bail of *C. D.* if they be found in your bailiwick, and gainst bail in
error, on a
recognizance
taken in the
King's Bench.
them safely keep, so that you may have their bodies before
us at *Westminster*, on — next after —, to satisfy *A. B.*
—*l.* which the said *E. F.* and *G. H.* in our court before us,
according to the form of the statute made for avoiding un-
necessary delays of execution, acknowledged themselves to
owe to the said *A. B.* to be paid to the said *A. B.* his execu-
tors or assigns; whereof the said *E. F.* and *G. H.* are con-
victed, as appears to us of record: And whereupon it is
considered, in our same court before us, that the said *A. B.*
have his execution thereupon against the said *E. F.* and *G.*
H. for the said —*l.*; and have there then this writ. Wit-
ness, (&c.)

B. } It is ordered, that the king's writ of *scire facias* be (§ 55.)
v. } issued forth, upon a judgment obtained by the plain- Rule for *scire*
facias, on a
judgment above
seven, and un-
der ten years
old, in C. P.
D. } tiff against the defendant, in — term, in the —
year of the reign of his present majesty king *George* the
third, and entered on record in this court, of the same
term, for —*l.* debt, and — damages.

Side-Bar.

B. } It is ordered, that a writ of our lord the king of *scire* (§ 56.)
v. } *facias* be issued against the defendant, upon a judgment The like, on a
judgment,
above ten, and
under twenty
years old, in
C. P.
D. } obtained by the plaintiff, in — term, in the — year
of the reign of his present majesty king *George* the third, and
entered

CHAP. XL. entered on record of the same term, for — *l.* debt, and — damages : But no execution shall be issued thereupon, unless the sheriff shall return on the said writ, that he hath made known to the said defendant, according to the tenor thereof, or an affidavit shall be made in writing, that personal notice of the said writ having been prosecuted, hath been given to the said defendant.

By the Court,

Serjeant, — for plaintiff.

(§ 57.)
*Præcipe for scire
facias, on a
judgment.*

— to wit. *Scire facias* to revive, for *A. B.* against *C. D.* for — *l.* damages, (or “ — *l.* debt, and — *l.* damages,”) returnable on —.

E. F. attorney.

— 18—.

(§ 58.)
*Scire facias on
a judgment in
assumpsit, in
K. B.*

*George the Third, (&c.)** To the sheriff of — greeting : Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ *, and by the judgment of the same court, recovered against *C. D.* — *l.* for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended ; whereof the said *C. D.* is convicted, as appears to us of record : And now on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the damages aforesaid still remains to be made to him ; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf : And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before us at *Westminster*, on — next after —, to shew if he has or knows of any thing to say for himself, why the said *A. B.* ought not to have his execution against him of

* This and the following writs, in the King's Bench, are mostly drawn as if the former proceedings were by *bill* : if they were by *original*, say, “ by our writ, and by the judgment of the same court,” &c. making the writ returnable on a *genera* return day, wheregoeter, &c.; and instead of concluding with the words “ have there *then* the names,” &c. say, “ have *there* the names,” &c.

the damages aforesaid, according to the force form and effect CHAP. XL.
of the said recovery, if it shall seem expedient for him so to
do; and further to do and receive what our said court before
us shall then and there consider of him, in this behalf; and
have there then the names of those by whom you shall so
make known to him, and this writ. Witness *Edward* Lord
Ellenborough, at *Westminster*, the — day of — in the —
year our reign.

Law and Markham.

George the Third, (&c.) To the sheriff of — greeting: (§ 59.)
Whereas *A. B.* lately in our court before us at *Westminster*, ^{The like in}
by bill without our writ, and by the judgment of the same ^{du, in K. B.}
court, recovered against *C. D.* a certain debt of — *l.*
and also — *l.* which in the same court were adjudg-
ed to the said *A. B.* for his damages which he had sus-
tained, as well on occasion of the detention of the said debt,
as for his costs and charges by him about his suit in that be-
half expended; whereof the said *C. D.* is convicted, as ap-
pears to us of record: And now on the behalf of the said
A. B. in our said court before us, we have been informed,
that although judgment be thereupon given, yet execution of
the debt and damages aforesaid still remains to be made to
him; wherefore the said *A. B.* hath humbly besought us to
provide him a proper remedy in this behalf: And we being
willing that what is just in this behalf should be done, com-
mand you, that by honest and lawful men of your bailiwick,
you make known to the said *C. D.* that he be before us at
Westminster, on — next after —, to shew if he has or
knows of any thing to say for himself, why the said *A. B.*
ought not to have his execution against him, of the debt
and damages aforesaid, according to the force form and ef-
fect of the said recovery, if it shall seem expedient for him
so to do; and further to do and receive, &c. (as in the last.)

George, the Third, (&c.) To the sheriff of — greeting: (§ 60.)
Whereas *A. B.* lately in our court before us at *Westminster*, ^{The like in}
by bill without our writ, and by the judgment of the same ^{covenant, in}
court, recovered against *C. D.* — *l.* for his damages which ^{K. B.}
he had sustained, as well on occasion of the breach of a cer-
tain covenant, made between the said *A. B.* and the said *C. D.*

CHAP. XL. as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, &c. (as before, p. 528, 9.)

(§ 61.) For his damages which he had sustained, as well on occasion of a certain grievance, then lately committed by the said *C. D.* as for his costs, (&c.)

(§ 62.) For his damages which he had sustained, as well on occasion of certain trespasses, then lately committed by the said *C. D.* as for his costs, (&c.)

(§ 63.) *George the Third, (&c.) To the sheriff of — greeting :*
Scire facias on a judgment in assumpsit, in C. P. Whereas *A. B.* lately in our court, to wit, in — term in the — year of our reign, before Sir *Vicary Gibbs* knight and his companions, then our justices of the bench at *Westminster*, by the consideration and judgment of the same court, recovered against *C. D.* — l. which to the said *A. B.* in the same court were adjudged, for his damages which he had sustained, on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* at — ; whereof the said *C. D.* is convicted, as by the record and proceedings thereof, remaining in our said court before our justices at *Westminster* aforesaid, manifestly appears : yet execution of the said judgment still remains to be made, as by the information of the said *A. B.* in our said court, we have been given to understand : And because we are willing that those things which in our said court are rightly done and transacted, should be duly carried into execution ; we command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before our justices at *Westminster*, on —, to shew if he hath or knoweth of any thing to say for himself, why the said *A. B.* ought not to have execution against him, for the damages aforesaid, according to the form and effect of the said recovery, if it shall seem expedient for him so to do ; and have there the names of those by whom you shall so make known to him, and this writ. Witness Sir *Vicary Gibbs* knight, at *Westminster*, the — day of — in the — year of our reign.

George

George the Third, (&c.) To the sheriff of — greeting: CHAP. XL.
 Whereas *A. B.* lately in our court, to wit, in — term ^(§ 64.)
 in the — year of our reign, before Sir *Vicary Gibbs* ^{The like in}
 knight and his companions, then our justices of the bench at *Westminster*, by the consideration and judgment of the same ^{edict, in C. P.}
 court, recovered against *C. D.* as well a certain debt of —*l.*
 as also —*l.* which were adjudged to the said *A. B.* in our
 same court, for his damages which he had sustained, on
 occasion of the detaining of that debt; whereof the said *C. D.*
 is convicted, &c. (as in the last.)

In *covenant*, it should be stated, that the plaintiff recovered ^(§ 65.)
 against the defendant —*l.* for his damages which he had ^{The like in co-}
 sustained, on occasion of the breach of a certain covenant, ^{venant, in C. P.}
 made between the said *A. B.* and the said *C. D.*; whereof the
 said *C. D.* is convicted, (&c.)

For his damages which he had sustained, on occasion of a ^(§ 66.)
 certain grievance, then lately committed by the said *C. D.* ^{In case.}
 at — in your county; whereof the said *C. D.* is con-
 victed, (&c.)

For his damages which he had sustained, on occasion of ^(§ 67.)
 certain trespasses, (or in *trespass and assault*, “of certain ^{In trespass.}
 trespasses and assaults,”) then lately committed by the said
C. D. at — in your county; whereof the said *C. D.* is
 convicted, (&c.)

George the Third, (&c.) To the sheriff of — greeting: (§ 68.)
 Whereas *A. B.* our debtor, in our court before the barons of ^{The like, in the}
 our Exchequer at *Westminster*, heretofore, that is to say, in the ^{Exchequer, in}
 term of — last past, (or “in the — year of our reign,”) by ^{debt.}
 the consideration and judgment of the same court, recovered
 against *C. D.* as well a certain debt of —*l.* as —*l.* which
 to the said *A. B.* were adjudged in our said court, for his
 damages which he had sustained by reason of detaining the
 said debt; whereof the said *C. D.* is convicted, as by in-
 specting the rolls of our said Exchequer, appears to us:
 And although the said judgment be rendered, yet execution
 thereof still remains to be made, as by the information of
 the said *A. B.* in our said court, we have been given to un-
 derstand:

CHAP. XL. derstand : And we being willing that those things which are rightly done in our said court, should have due execution, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before the barons of our said Exchequer at *Westminster*, on, (&c.) to shew if he hath or can say any thing for himself, why the said *A. B.* should not have his execution against the said *C. D.* for the debt and damages aforesaid, according to the form and effect of the said recovery, if it shall seem expedient for him so to do : And in what manner you shall execute this our writ, make appear to the barons of our said Exchequer at *Westminster*, on, (&c.) ; and have you there the names of those by whom you shall so make known to him, and this writ. Witness *Sir Alexander Thomson* knight, (&c.)

(§ 69.)
Scire facias for
 the defendant,
 for costs, in
S. B.

George the Third, (&c.) To the sheriff of — greeting :
 Whereas *C. D.* lately in our court before us at *Westminster*, by the judgment of the same court, recovered against *A. B.* — *l.* which in the same court were adjudged to the said *C. D.* according to the form of the statute in such case made and provided, for his costs and charges by him laid out in and about his defence of and in a certain plea of trespass on the case, &c. (or as the plea was,) before then commenced and depending in our same court, by and at the suit of the said *A. B.* against the said *C. D.* ; whereof the said *A. B.* is convicted, (&c.) And now on the behalf of the said *C. D.* in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the costs and charges aforesaid still remains to be made to him ; wherefore the said *C. D.* hath humbly besought us to provide him a proper remedy in this behalf : And we being willing, (&c.) command you, that by honest and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us at *Westminster*, on, (&c.) to shew if he hath or knoweth of any thing to say for himself, why the said *C. D.* ought not to have his execution against him, of the costs and charges aforesaid, according to the force form and effect of the said recovery, if it shall seem expedient for him so to do ; and further to do and receive, &c. (as before, p. 529.)

George

George the Third, (&c.) To our chancellor of our county-CHAP. XL.
 palatine of *Lancaster*, or to his deputy there, greeting: (§ 70.)
 Whereas *A. B.* lately in our court before us at *Westminster*, Scire facias to
 by bill without our writ, and by the judgment of the same a county-pala-
 court, recovered, &c. (as before, p. 528, 9. to the mandatory tine, in K. B.
 part of the writ, which is as follows:)--command you, that
 by our writ under the seal of our said county-palatine to be
 duly made, and directed to the sheriff of the said county-
 palatine, you command the said sheriff, that by good and
 lawful men of his bailiwick, he make known, &c. (as before);
 and have you there then the names of those by whom the
 said sheriff shall so make known to him, and this writ. Wit-
 ness, (&c.)

George the Third, (&c.) To the sheriff of — greeting: (§ 71.)
 Whereas *A. B.* lately in our court before us at *Westminster*, Scire facias, at-
 by bill without our writ, and by the judgment of the same ter a former
 court, recovered, &c. (stating the judgment); whereof the revival, in
 said *C. D.* is convicted, as appears to us of record; and where- K. B.
 upon it was afterwards considered in our said court before
 us, that the said *A. B.* should have his execution against the
 said *C. D.* of the damages (or “debt and damages”) aforesaid,
 according to the force form and effect of the said recovery, as
 also appears to us of record: And now on the behalf of the
 said *A. B.* in our said court before us, we have been in-
 formed, that although judgment be thereupon given, and
 execution awarded in form aforesaid, yet execution of the
 damages (or “debt and damages”) aforesaid still remains to
 be made to him; wherefore the said *A. B.* hath humbly be-
 sought us to provide him a proper remedy in this behalf:
 And we being willing that what is just in this behalf should be
 done, command you, that by honest and lawful men of your
 bailiwick, you make known to the said *C. D.* that he be be-
 fore us at *Westminster*, on — next after —, to shew if he
 has or knows of any thing to say for himself, why the said
A. B. ought not to have his execution against him, of the da-
 mages (or “debt and damages”) aforesaid, according to the
 force form and effect of the said recovery and award of exe-
 cution, if it shall seem expedient for him so to do; and fur-
 ther to do and receive, &c. (as before, p. 529.)

CHAP. XL. *George the Third, (&c.) To the sheriff of — greeting :*

(§ 72.)

Scire facias

pending error,
on a judgment
of the Common
Pleas.

Whereas *A. B.* lately in our court, before the honourable Sir *Vicary Gibbs* knight and his companions, then our justices of the Bench at *Westminster*, by our writ, and by the judgment of the same court, recovered, &c. (stating the judgment); whereof the said *A. B.* is convicted, as by the inspection of the record and proceedings thereof, which for certain causes of error, we lately caused to be brought into our said court before us, appears to us of record: And now on the behalf of the said *A. B.* in our said court before us, we have been informed, &c. (as before, p. 528, 9. making the writ returnable on a general return-day, wheresoever, &c.)

(§ 73.)

The like, on
error from an
inferior court.

George the Third, (&c.) To the sheriff of — greeting :
Whereas *A. B.* lately in our court of — before the judges of the same court, without our writ, and by the judgment of the same court, recovered against *C. D.* — *l.* for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings then lately made by the said *C. D.* to the said *A. B.* at — in your county, and within the jurisdiction of the same court, as for his costs, (&c.); whereof the said *C. D.* is convicted, as by the inspection of the record and proceedings thereof, which for certain causes of error, we lately caused to be brought into our said court before us, manifestly appears: And now on the behalf of the said *A. B.* in our said court before us, we have been informed, &c. (as in the last.)

(§ 74.)

Scire facias, after
a judgment
of the Common
Pleas, affirmed
in the King's
Bench.

George the Third, (&c.) To the sheriff of — greeting :
Whereas *A. B.* lately in our court before the honourable Sir *Vicary Gibbs* knight and his companions, then our justices of the Bench at *Westminster*, by our writ, and by the judgment of the same court, recovered, &c. (stating the original judgment); whereof the said *C. D.* is convicted, as by the inspection of the record and proceedings thereof, which we lately caused to be brought into our court before us, by virtue of our certain writ of error prosecuted by the said *C. D.* of and upon the premises, and which now remains in our said court before us, in all things affirmed, appears to us of record;

cord; and afterwards the said *A. B.* by the consideration and judgment of our said court before us, recovered against the said *C. D.* — *I.* which in our said court before us were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained, on occasion of the delay of execution of the judgment aforesaid, on pretence of prosecuting our said writ of error, by the said *C. D.* so as aforesaid prosecuted of and upon the premises; whereof the said *C. D.* is also convicted, as appears to us of record: And now on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given and affirmed in form aforesaid, yet execution of that judgment still remains to be made to him; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before us, on — — wheresoever we shall then be in *England*, to shew if he hath or knoweth of any thing to say for himself, why the said *A. B.* ought not to have his execution against him, of the damages costs and charges aforesaid, according to the force form and effect of the recovery and adjudication aforesaid, if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, p. 529.)

George the Third, (&c.) To the sheriff of — — greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered, &c. (stating the original judgment); whereof the said *C. D.* is convicted, as appears to us of record; and afterwards the said *C. D.* brought a writ of error upon the said judgment, returnable in our court of Exchequer-Chamber at *Westminster*, before our justices of the Bench and the barons of our Exchequer of the degree of the coif, according to the form of the statute, (&c.) And such proceedings were thereupon had in our said court of Exchequer-Chamber, that the said judgment was afterwards in all things affirmed; and the said *A. B.* by the consideration and judgment of the same court, recovered against the said *C. D.*

(§ 75.)
The like, after
a judgment of
the King's
Bench, affirmed
in the Ex-
chequer-
chamber.

CHAP. XL. — *l.* which in the same court were adjudged to the said *A. B.* according to the form of the statute, (*Sc.*) for his damages, (*dc.*) on pretence of prosecuting our said writ of error; whereof the said *C. D.* is also convicted, as by the record and proceedings of our said justices and barons, before them had in the premises, and by them remitted into and now remaining in our said court before us at *Westminster* aforesaid, also appears to us of record: And now on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given and affirmed in form aforesaid, yet execution of the damages costs and charges aforesaid still remains to be made to him; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before us at *Westminster*, on — next after —, to shew if he hath or knoweth of any thing to say for himself, why the said *A. B.* ought not to have his execution against him, of the damages costs and charges aforesaid, according to the force form and effect of the recovery and adjudication aforesaid, if it shall seem expedient for him so to do; and further to do and receive, *&c.* (as before, p. 529)

(§ 75.)
The like, after
non-pros on a
writ of false
judgment.

George the Third, (&c.) To the sheriff of — greeting:
Whereas *A. B.* lately, to wit, at the — county-court of — esquire, sheriff of your county, held at — in and for the said county, and within the jurisdiction of the same court, on — the — day of — in the year of our Lord 18—, before *E. F. G. H. I. K.* and *L. M.* gentlemen, freeholders of the said county, and suitors of the same court, by the consideration and judgment of the same court, recovered, *&c.* (stating the judgment in the county-court); whereof the said *C. D.* is convicted, as by the record of the plaint between the said *A. B.* and *C. D.* in that behalf, which we lately caused to be recorded in the full county aforesaid, and the record thereof had in our court before us at *Westminster*, on — last past, under the seal of the said — sheriff of the said county, and the seals of four lawful knights of the same county, of such as were present at the said recording, by virtue of our writ,

writ, at the instance of the said *C. D.* who complained that **CHAP. XL.** false judgment had been given against him in the said county, and which said writ the said *C. D.* did not further prosecute in the same court, manifestly appears; nevertheless execution of the said judgment still remains to be made, as on the information of the said *A. B.* in our said court before us, we have been given to understand: And because we are willing that those things which in our said court, and in the county-court aforesaid, are rightly done and transacted, should be duly carried into execution; therefore we command you, that by honest and lawful men of your bailiwick, you make known, &c. (as before, p. 528, 9.)

George the Third, (&c.) To the sheriff of — greeting: (*§ 77.*)
 Whereas *A. B.* heretofore, to wit, in — term in the — *Scire facias, after the judgment a do't on an am- nity bond, suggesting a further breach of the condition, on the stat. 8 & 9 W. III. c. 11. § 8. in h. B.*
 year of our reign, in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* a certain debt of — *l.* and also — *s.* for his damages which he had sustained, as well on occasion of the detaining the said debt, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* was convicted, as by the record and proceedings thereof, remaining in our said court before us at *Westminster* aforesaid, manifestly appears: which said judgment, so recovered against the said *C. D.* as aforesaid, was had and obtained upon a certain writing obligatory, bearing date the — day of — in the year of our Lord 18—, and sealed with the seal of the said *C. D.* whereby the said *C. D.* became held and firmly bound to the said *A. B.* in the said sum of — *l.* to be paid to the said *A. B.* when he the said *C. D.* should be thereto afterwards requested; with and under a certain condition to the said writing obligatory subscribed, whereby, after reciting, (&c.) it was declared, that if the said *C. D.* &c. (to the end of the condition); And whereas the said *A. B.* heretofore assigned (or, after judgment by default, *suggested*) a certain breach of the said condition of the said writing obligatory, according to the form of the statute in such case made and provided, to wit, that, &c. (reciting the former breach); and damages were thereupon assessed, for and by reason of the said breach so assigned (or, suggested); which damages

CHAP. XL. damages have been since paid and satisfied : And whereas it hath been and is duly suggested by the said *A. B.* in our said court before us, as and by way of another and further breach of the said condition of the said writing obligatory, than the said breach so assigned (or, suggested) as aforesaid, that after the recovery of the said judgment, and in the life-time of the said *C. D.* to wit, on the — day of — in the year of our Lord 18—, at — in your county, a large sum of money, to wit, the sum of —*l.* of lawful money of *Great Britain*, of the said annuity or yearly sum of —*l.* in the said condition mentioned, for — then elapsed, became and was due and payable from the said *C. D.* to the said *A. B.* and which said sum of —*l.* is still due in arrear and unpaid from the said *C. D.* to the said *A. B.* contrary to the form and effect of the said condition of the said writing obligatory ; for which said last-mentioned breach of the aforesaid condition of the said writing obligatory, the said *A. B.* hath humbly besought us to provide him a proper remedy : And we being willing that what is just in this behalf should be done, do, according to the form of the statute in such case made and provided, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before us at *Westminster*, on — next after —, to shew cause why execution should not be had and awarded against him, upon the said judgment so obtained as aforesaid, for the damages to be assessed by reason of the said last-mentioned breach of the said condition of the said writing obligatory, if it shall seem expedient for the said *A. B.* so to do ; and further to do and receive what our said court before us shall then and there consider of him in this behalf : and have there then the names of those by whom you shall so make known to him, and this writ Witness, (&c.)

(§ 73.)
The *rike*, in
debt on articles
of agreement,
in K. B.

George the Third, (&c.) To the sheriff of — greeting :
Whereas *A. B.* heretofore, to wit, in — term, in the — year of our reign, in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered, &c. (as in the last ;) whereof the said *C. D.* was convicted, (&c.) : which said debt so recovered as aforesaid, was and is a certain penal sum of —*l.* mentioned in certain articles of agreement, made the — day of — in the year
of

of our Lord 18—, between the said *A. B.* of the one part, CHAP. XL.
and the said *C. D.* of the other part; by which said articles
of agreement, reciting, (&c.) it is witnessed, &c. (setting
forth so-much of the articles, as is necessary for assigning the
further breaches) : And whereas the said *A. B.* heretofore as-
signed a certain breach of the said articles of agreement, &c.
(as in the last, substituting “ the said articles of agreement,”
for “ the said condition of the said writing obligatory.”)

George the Third, (&c.) To the sheriff of — greeting : (\$ 79.)
Whereas *A. B.* our debtor, heretofore, to wit, in — term, The like, in the
in the — year of our reign, in our court before the barons Exche
of our Exchequer at *Westminster*, by bill without our writ, debt on an
and by the judgment of the same court, recovered, &c. (as in annuity bond
the last but one;) whereof the said *C. D.* was convicted, as after a fo
by the record and proceedings thereof, remaining in our said scire facit
court before the barons of our said Exchequer at *Westminster*
aforesaid, manifestly appears : which said judgment was so
recovered against the said *C. D.* as aforesaid, upon a certain
writing obligatory, bearing date, (&c.) and sealed with the
seal of the said *C. D.* whereby the said *C. D.* became held and
firmly bound to the said *A. B.* in the said sum of —*l.* to
be paid to the said *A. B.* when he the said *C. D.* should be
thereto afterwards requested ; under and subject to a certain
condition thereto subscribed, whereby, after reciting, (&c.)
it was declared, that if, (&c.) And whereas the said *A. B.*
heretofore assigned (or, after judgment by default, *suggested*)
a certain breach of the said condition of the said writing
obligatory, according to the form of the statute in such case
made and provided, to wit, that, &c. (reciting the former
breach) ; and damages were thereupon assessed, for and by
reason of the said breach so assigned (or, suggested) ; which
damages have been since paid and satisfied : And whereas
after the recovery of the said judgment, to wit, in — term,
in the — year of our reign, there issued out of our said
court, before the barons of our said Exchequer, our certain
writ of *scire facias* upon the said judgment, against the said
C. D. according to the form of the statute in such case made
and provided, suggesting another and further breach of the
said condition of the said writing obligatory, in the non-
payment of the sum of —*l.* for — of the said annuity
or

CHAP. XI. or yearly sum of —*l.* which became due and owing from the said *C. D.* to the said *A. B.* on the — day of — in year of our Lord 18—; and which said sum of —*l.* hath been also paid and satisfied: And whereas it hath been and is duly suggested by the said *A. B.* in our said court, before the barons of our said Exchequer, as and by way of another and further breach of the said condition of the said writing obligatory, than the said breaches respectively assigned and suggested as aforesaid, that, &c. (assigning the further breach, and proceeding as follows) for which said last-mentioned breach of the said condition of the said writing obligatory, the said *A. B.* hath humbly besought us to provide him a proper remedy: And we being willing, &c. (as before, *mutatis mutandis.*)

(§ 67)
Scire fieri
 inquiry.

George the Third, (&c.) To the sheriff of — greeting: Whereas by our writ we lately commanded you, that of the goods and chattels in your bailiwick, which were of *E. F.* deceased at the time of his death, in the hands and possession of *C. D.* executor of the last will and testament of the said *E. F.* (or, “administrator of all and singular the goods chattels and credits, which were of the said *E. F.* at the time of his death, who died intestate, as it is said,”) to be administered, you should cause to be made a certain debt of —*l.* which *A. B.* lately in our court before us at *Westminster*, recovered, &c. (as in the writ of *fieri facias*); whereof the said *C. D.* was convicted, as appeared to us of record, if the said *C. D.* had so-much thereof in his hands to be administered, and if he had not so-much thereof in his hands to be administered, then that you should cause the damages aforesaid to be made of the proper goods and chattels of the said *C. D.* and that you should have that money before us at *Westminster*, on a certain day now past, to render to the said *A. B.* for his debt and damages aforesaid: And you at that day returned to us, that the said *C. D.* had no goods or chattels in your bailiwick, which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* to be administered, whereof you could cause to be made the debt and damages aforesaid, or any part thereof; and that the said *C. D.* had not any of his own proper goods or chattels in your bailiwick, whereof you could cause to be made the damages aforesaid,

aforesaid, or any part thereof : And because the return afore- CHAP. XL.
said, by you made in our said court before us, seems to be
in delay of execution of the debt and damages aforesaid ; and
because on the behalf of the said *A. B.* in our said court
before us, it is sufficiently testified, that divers goods and
chattels which were of the said *E. F.* at the time of his death,
to the value of the debt and damages aforesaid, after the
death of the said *E. F.* came to the hands and possession of
the said *C. D.* to be administered, and that the said *C. D.*
hath sold and wasted those goods and chattels, and converted
and disposed of the money arising therefrom to his own use ;
and that the said *C. D.* hath eloigned the residue of the goods
and chattels which were of the said *E. F.* at the time of his
death, to places to the said *A. B.* unknown, and hath con-
verted and disposed of the said last-mentioned goods and
chattels to his own use, with intent that execution thereof
should not as yet be made : And because we are unwilling
that those things which in our said court before us are rightly
done or adjudged, should be rendered ineffectual by fraud or
subtilty ; therefore we command you, that of the goods and
chattels in your bailiwick, which were of the said *E. F.* at
the time of his death, in the hands of the said *C. D.* to be
administered, you cause to be made the debt and damages
aforesaid, if they can be levied thereof ; and have the money
thereof levied before us at *Westminster*, on — next after
—, to be rendered to the said *A. B.* for his debt and damages
aforesaid ; and if they cannot be thereof levied, then if it
shall appear to you, by the inquisition upon oath of honest
and lawful men of your bailiwick, in this behalf to be taken,
or in any other manner by which you may the better know,
that the said *C. D.* hath sold, eloigned, wasted, or converted
or disposed of to his own use, the goods or chattels which
were of the said *E. F.* at the time of his death, in the hands
of the said *C. D.* to be administered, to the value of the debt
and damages aforesaid, or any part thereof, that then by
honest and lawful men of your bailiwick, you make known
to the said *C. D.* that he be before us at *Westminster*, on —
next after —, to shew if he has or knows of any thing to say
for himself, why the said *A. B.* ought not to have his exe-
cution against him, of the debt and damages aforesaid, to be
levied of the proper goods and chattels of the said *C. D.* if it
shall

CHAP. XL. shall seem expedient for him so to do; and further to do and receive, &c. (as before, p. 529.)

(§ 81.)
Scire facias
against an exe-
cutor or admin-
istrator, on a
judgment of
assets *quando*
acciderunt.

George the Third, (&c.) To the sheriff of — greeting:
Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* executor of the last will and testament of *E. F.* deceased, (or “administrator of all and singular the goods chattels and credits, which were of *E. F.* deceased at the time of his death, who died intestate,”) — *l.* for his damages, &c. (or, “a certain debt of — *l.*”) to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, and which should thereafter come to the hands of the said *C. D.* executor (or “administrator”) as aforesaid to be administered; whereof the said *C. D.* was convicted, as appears to us of record: And although judgment be thereupon given, yet execution of the damages (or “debt”) aforesaid, still remains to be made to him; and after the judgment aforesaid, in form aforesaid given, divers goods and chattels which were of the said *E. F.* at the time of his death, to the value of the damages (or “debt”) aforesaid and more, came to and are now in the hands and possession of the said *C. D.* executor (or “administrator”) as aforesaid to be administered, whereof he may satisfy the said *A. B.* for the damages (or “debt”) aforesaid, as by the information of the said *A. B.* in our said court before us, we have been given to understand; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* executor (or “administrator”) as aforesaid, that he be before us at *Westminster*, on — next after —, to shew if he hath or knoweth of any thing to say for himself, why the said *A. B.* ought not to have execution against him for the damages (or “debt”) aforesaid, to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, and which so as aforesaid came to and are now in the hands of the said *C. D.* executor (or “administrator”) as aforesaid to be administered, if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, p. 529.)

George

George the Third, (&c.) To the sheriff of — greeting : CHAP. XL.
 Whereas *A. B.* lately in our court before us at *Westminster*, (§ 82.)
 by bill without our writ, and by the judgment of the same *Scire facias*
 court, recovered, &c. (as in a common *scire facias*, to the against the fu-
 words “as appears to us of record”): And whereas also we ture effects of
 have been informed, that after the 24th day of *June* in the a bankrupt,
 year of our Lord 1732, and before the issuing of the second whose estate
 commission of bankrupt against the said *C. D.* hereinafter did not pay
 mentioned, to wit, on — at — the said *C. D.* became a fifteen shillings
 bankrupt, within the true intent and meaning of the several in the pound,
 statutes made and now in force concerning bankrupts, or under a second
 some or one of them; and that thereupon afterwards, to wit, commission, in
 on — at — aforesaid, a commission of bankrupt, under K. B.
 the great seal of *Great Britain*, was duly awarded and issued
 against the said *C. D.* as by the said commission, reference
 being thereto had, more fully appears; and that the said
C. D. afterwards, to wit, on — at — aforesaid, was un-
 der and by virtue of such commission, duly found to have
 become a bankrupt, before the date and issuing forth of the
 said commission, and was thereupon then and there declared
 and adjudged a bankrupt accordingly; and that the said
C. D. afterwards, to wit, on — at — aforesaid, did in
 due manner obtain his certificate under the said commission
 of bankrupt, so awarded and issued against the said *C. D.* as
 aforesaid; and that the said *C. D.* was thereupon afterwards,
 to wit, on — last aforesaid, at — aforesaid, discharged in
 that behalf, by virtue of a certain act of parliament made and
 passed in the fifth year of the reign of his late majesty king
George the second, intituled “An act to prevent the commit-
 ting of frauds by bankrupts;” and that the said *C. D.* after
 such discharge, to wit, on — did again become bankrupt,
 within the true intent and meaning of the several statutes
 made and then in force concerning bankrupts, or some or one
 of them; and that thereupon afterwards, to wit, on — at
 — aforesaid, another commission of bankrupt, under the
 great seal of *Great Britain*, was duly awarded and issued
 against the said *C. D.* as by the said last-mentioned com-
 mission reference being thereto had, more fully appears; and
 that the said *C. D.* afterwards, to wit, on — at — afore-
 said, was under and by virtue of such last-mentioned com-
 mission, duly found to have become a bankrupt, before the
 date

CHAP. XL. date and issuing forth of the said last-mentioned commission, and was thereupon then and there declared and adjudged to be a bankrupt accordingly : And whereas we have been further informed, that the debt for which the judgment aforesaid was given, became and was due and owing from the said *C. D.* to the said *A. B.* after the said *C. D.* was discharged as hereinbefore mentioned, and before the said *C. D.* became bankrupt as last above-mentioned ; and that the said *C. D.* after the said judgment was given in form aforesaid, to wit, on — at — was charged in execution upon the said judgment, for the debt and damages aforesaid, and was detained in prison on that occasion, until the time of his discharge as hereinafter mentioned ; and that the said *C. D.* after the said judgment was given in form aforesaid, and after the said *C. D.* was so charged in execution as aforesaid, to wit, on — at — aforesaid, duly obtained his certificate under the said last-mentioned commission of bankrupt, so awarded and issued against the said *C. D.* as aforesaid, and was thereupon afterwards, to wit, on — discharged out of custody on such execution, by virtue of the said act of parliament made and passed in the fifth year of the reign of his said late majesty king *George* the second, intituled “ An act to prevent the committing of frauds by bankrupts ; ” and the estate of the said *C. D.* hath not at any time hitherto produced clear, after all charges, sufficient to pay every creditor under the said last-mentioned commission, so awarded and issued against the said *C. D.* as aforesaid, fifteen shillings in the pound for their respective debts : And whereas also we have further been informed, that the said *C. D.* is possessed of divers goods and chattels in your bailiwick, as of his own proper goods and chattels, which have become the goods and chattels of the said *C. D.* since the time of his obtaining his certificate under the said last-mentioned commission of bankrupt, so awarded and issued against the said *C. D.* as aforesaid, whereby the said *A. B.* may be satisfied his debt and damages aforesaid ; and the said *A. B.* hath obtained no execution for the said debt or damages, except as aforesaid ; whereupon the said *A. B.* hath besought us to provide him a proper remedy in this behalf : And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick, you cause to be made known

known to the said *C. D.* that he be before us at *Westminster*, on **CHAP. XL.**
 — next after —, to shew if he has or knows of any thing
 to say for himself, why the said *A. B.* ought not to have his
 execution against the goods and chattels, which have be-
 come the goods and chattels of the said *C. D.* since the time
 of his obtaining his certificate under the said last-mentioned
 commission of bankrupt, so awarded and issued against him
 as aforesaid, and also against the estate and other effects of
 the said *C. D.* (the tools of trade, the necessary household
 goods and furniture, and necessary wearing apparel of the
 said *C. D.* and his wife and children, only excepted,) for the
 debt and damages aforesaid, according to the force form and
 effect of the said recovery, and of the statute in such case
 made and provided, if it shall be expedient for him so to do :
 and further to do and receive, &c. (as before, p. 529.)

George the Third, (&c.) To the sheriff of — greeting: (§ 93.)
 Whereas *A. B.* lately in our court before us at *Westminster*, The like, where the bankrupt had previously compounded with his creditors, in K. B.
 by bill without our writ, and by the judgment of the same
 court, recovered, &c. (as in a common *scire facias*, to the
 words “as appears to us of record:”) And whereas also we
 have been informed, that after the 24th day of *June* in the
 year of our Lord 1732, and before the issuing of the com-
 mission of bankrupt against the said *C. D.* hereinafter men-
 tioned, to wit, on — at — in your county, the said *C. D.*
 compounded with his creditors, and delivered to them his
 estate and effects, and was thereupon then and there released
 by his said creditors; and that the said *C. D.* after having so
 compounded with his creditors, and been released as aforesaid,
 to wit, on — at — aforesaid, did become bankrupt, &c.
 (as in the last, to the end, *mutatis mutandis*, stating that the
 debt for which the judgment was given, became due “after
 the said *C. D.* had compounded with his creditors, and been
 released as hereinbefore mentioned, and before the said *C. D.*
 became bankrupt as aforesaid.”)

George the Third, (&c.) To the sheriff of Lancashire, (§ 84.)
 greeting: Whereas *A. B.* lately in our court before our jus- The like, against the fu- ture effects of a defendant discharged under an insol- vent act, on a
 tices at *Lancaster*, by our writ, and by the judgment of the
 same court, recovered against *C. D.* —l. for his damages
 which he had sustained, as well on occasion of the not per-
 forming

CHAP. XL.
judgment in
the Common
Pleas at *Lancaster*.

forming certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: And whereas also we have been informed, that the said *C. D.* was actually a prisoner in his majesty's prison of — at the suit of the said *A. B.* on the — day of — 18— mentioned in a certain act, made at our parliament, holden at *Westminster* in the county of *Middlesex*, in the — year of our reign, intituled, “An act for the relief of certain insolvent debtors;” and was then and there charged in execution upon the said judgment, for the damages aforesaid, and was detained in prison on that occasion, until the time of his discharge hereinafter mentioned; and that afterwards, to wit, at the general quarter sessions of the peace, holden at — in and for the said county of *Lancaster*, on the — day of — in the year of our Lord 18— aforesaid, before certain then justices assigned to keep our peace in and for the said county of *Lancaster*, he the said *C. D.* was duly discharged, according to the said act: And whereas also we have further been informed, that the said *C. D.* is possessed of divers goods and chattels in your bailiwick, as of his own proper goods and chattels, which have become the goods and chattels of the said *C. D.* since the time of his discharge under the said act, whereby the said *A. B.* may be satisfied his damages aforesaid; and the said *A. B.* hath obtained no execution for the said damages, except as aforesaid; whereupon the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick, you cause to be made known to the said *C. D.* that he be before our justices at *Lancaster*, on, (&c.) to shew if he has or knows of any thing to say for himself, why the said *A. B.* ought not to have his execution against the goods and chattels, which have become the goods and chattels of the said *C. D.* since the time of his said discharge under the said act, and also against the estate and other effects of the said *C. D.* for the damages aforesaid, according to the force form and effect of the said recovery, and of the statute in such case made and provided, if it shall seem expedient for him so to do; and further to do
and

and receive what our said court before our justices at *Lea- CHAP. XL.*
caster aforesaid, shall then and there consider of him in this
 behalf; and have there the names of those by whom you
 shall so make known to him, and this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of — greeting: (§ 85.)
 Whereas *A. B.* lately in our court before us at *Westminster*, *Seire facias* by
 by bill without our writ, and by the judgment of the same *haron and*
 court, recovered, (&c.); whereof the said *C. D.* is convicted, *fene, on a*
 as appears to us of record; and afterwards, to wit, on — *judgment re-*
 at — the said *A. B.* intermarried with and took to husband *covered by the*
E. F. as by the information of the said *E. F.* and *A.* his *feme don sola,*
 wife, in our said court before us, we have been given to *in K. B.*
 understand: And now on the behalf of the said *E. F.* and *A.*
 his wife, we have been informed, that although judgment be
 thereupon given, yet execution of the damages (or “debt
 and damages”) aforesaid still remains to be made to them;
 wherefore the said *E. F.* and *A.* his wife have humbly be-
 sought us to provide them a proper remedy in this behalf:
 And we being willing, &c. (as in a common *seire facias*, to
 the end.)

George the Third, (&c.) To the sheriff of — greeting: (§ 86.)
 Whereas *A. B.* lately in our court before us at *Westminster*, *The like,*
 by bill without our writ, and by the judgment of the same *against baton*
 court, recovered against *C. D.* (&c.) whereof the said *C. D.* *and fene, up-*
 is convicted, as appears to us of record; and afterwards, the *on a judgment*
 said *C. D.* intermarried with and took to husband *E. F.* And *recovered as*
 now on the behalf of the said *A. B.* in our said court before *against the fene*
 us, we have been informed, that although judgment be there- *don sola, in*
 upon given, yet execution of the damages (or “debt and *K. B.*
 damages”) aforesaid, still remains to be made to him; where-
 fore the said *A. B.* hath humbly besought us, &c. (as before,
 p. 523, 9.)

George the Third, (&c.) To the sheriff of — greeting: (§ 87.)
 Whereas *A. B.* and *E.* his wife lately in our court before us *The like, for a*
 at *Westminster*, by bill without our writ, and by the judg- *feme who sur-*
 ment of the same court, recovered against *C. D.* (&c.) whereof *vived her ba-*
 the *haron, a* *husband*
 the *executor, in*
 the *K. B.*

CHAP. XL. the said *C. D.* is convicted, as appears to us of record : And afterwards, to wit, on the — day of — in the year of our Lord 18— at — in your county, the said *C. D.* died, having first duly made and published his last will and testament in writing, and thereby constituted and appointed *G. H.* executor thereof; after whose death the said *G. H.* duly proved the said last will and testament of the said *C. D.* and took upon himself the burthen of the execution thereof : And afterwards, to wit, on the — day of — in the year of our Lord 18— at — aforesaid in your said county, the said *A. B.* also died, and the said *E.* then and there survived him ; as by the information of the said *E.* in our said court before us, we have been given to understand : And now, on the behalf of the said *E.* in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the damages (or “ debt and damages”) aforesaid still remains to be made ; wherefore, (&c.) : And we being willing, (&c.) command you, that by honest and lawful men of your bailiwick, you make known to the said *G. H.* executor as aforesaid, that he be before us at *Westminster*, on — next after —, to shew if he hath or knoweth of any thing to say for himself, why the said *E.* ought not to have her execution against him, of the damages (or “ debt and damages”) aforesaid, to be levied of the goods and chattels which were of the said *C. D.* at the time of his death, in the hands of the said *G. H.* as executor as aforesaid to be administered, according to the force form and effect of the said recovery, if it shall seem expedient for her so to do ; and further to do and receive, &c. (as before, p. 529.)

(§ 88.)

The like, by the assignees of a bankrupt, on a judgment recovered before the bankrupt-cy, in *K. B.*

George the Third, (&c.) To the sheriff of — greeting : Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered, &c. (stating the judgment) ; whereof the said *C. D.* is convicted, as appears to us of record ; and afterwards, the said *A. B.* became bankrupt, within the true intent and meaning of the several statutes made and then in force concerning bankrupts, or some or one of them ; where-
upon

upon a certain commission of bankrupt, under the great seal CHAP. XL.
of the united kingdom of *Great Britain and Ireland*, was
duly awarded and issued against the said *A. B.*; and *E. F.*
was duly chosen assignee of the estate and effects of the said
A. B. under the said commission: And now, on the behalf
of the said *E. F.* assignee as aforesaid, in our said court
before us, we have been informed, that although judgment
be thereupon given, &c. (as before, p. 528, 9.)

George the Third, (&c.) To the sheriff of — greeting: (§ 89.)
Whereas *A. B.* lately in our court before us at *Westminster*, Scire facias by or against an executor or administrator, on the statute 8 & 9 W. III. c. 11. § 6. where one of the parties dies after interlocutory judgment, and before the issuing of a writ of inquiry, in K. B.
to wit, in — term last past, (or, “in the — year of our reign,”) by bill without our writ, impleaded *C. D.* being in the custody of the marshal of our marshalsea before us, of a plea of trespass on the case, &c. (or as the plea is,) declaring in the same plea against him, for that whereas, &c. (here recite the declaration,) to the damage of the said *A. B.* of — l. as he said, and therefore he brought his suit, &c. And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that afterwards, to wit, in that same — term, (or “in — term last past,” or “in the — year aforesaid,”) it was considered by our said court before us, that the said *A. B.* ought to recover his damages on occasion of the premises; and afterwards, and before the issuing of a writ of inquiry for assessing the said damages, the said *A. B.* (or “*C. D.*”) died, having first duly made and published his last will and testament in writing, and thereby constituted and appointed *E. F.* (or “*G. H.*”) executor thereof; after whose death the said *E. F.* (or “*G. H.*”) duly proved the said last will and testament of the said *A. B.* (or “*C. D.*”) and took upon himself the burthen of the execution thereof, (or, if the plaintiff or defendant died intestate, say, “the said *A. B.* (or, *C. D.*) died intestate, and administration of all and singular the goods, chattels and credits which were of the said *A. B.* (or, *C. D.*) at the time of his death, by *Charles* by divine providence archbishop of *Canterbury*, primate of all *England* and metropolitan, in due form of law was granted to *E. F.* (or, *G. H.*) to wit, at — in your county;”) as by the information of the said *E. F.* executor (or “administrator”)

CHAP. XL. tor") as aforesaid, (or, "of the said *A. B.*") in our said court before us, we have been given to understand; wherefore the said *E. F.* executor (or "administrator") as aforesaid, (or, "the said *A. B.*") hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* (or; "to the said *G. H.* executor, or administrator, as aforesaid,") that he be before us at *Westminster*, on — next after —, to shew if he has or knows of any thing to say for himself, why the damages in the said action should not be assessed and recovered by the said *E. F.* executor (or "administrator") as aforesaid, (or, "by the said *A. B.*") according to the form of the statute in such case made and provided, if it shall seem expedient for him so to do; and farther to do and receive, &c. (as before, p. 529.)

(§ 90)
The like, in
C. P.

George the Third, (&c.) To the sheriff of — greeting :
Whereas *A. B.* lately in our court, to wit, in — term in the — year of our reign, before Sir *Vicary Gibbs* knight and his companions, then our justices of the Bench at *Westminster*, by our writ, impleaded *C. D.* late of —, declaring in the same plea against him, for that whereas, &c. (here recite the declaration;) to the damage of the said *A. B.* of — *L.* as it was said, and therefore he brought his suit, &c.: And such proceedings were thereupon had in our same court, that afterwards, to wit, in — term last past, it was considered by our said court, that the said *A. B.* ought to recover his damages on occasion of the premises; and afterwards, and before the issuing of a writ of inquiry for assessing the said damages, the said *A. B.* (or "*C. D.*") died, &c. (as in the last, to "proper remedy in this behalf.") And because we are willing that those things which in our same court are rightly done and transacted, should be duly carried into execution; we command you, that by good and lawful men of your bailiwick, you make known to the said *C. D.* (or "to the said *G. H.* executor, or administrator, as aforesaid,") that he be before our justices at *Westminster*, on —, to shew if he has or knows of any thing to say for himself, why the damages in the said action should not be assessed and recovered by the said *A. B.* (or "by the said *E. F.* executor, or administrator,

nistrator, as aforesaid,") according to the form of the statute **CHAP. XL.** in such case made and provided, if it shall seem expedient for him so to do; and have you there the names of those by whom you shall so make known to him, and this writ. Witness Sir *Wary Gibbs* knight, at *Westminster*, the — day of — in the — year of our reign.

George the Third, (&c.) To the sheriff of — greeting: (§ 91.)
 Whereas *A. B.* lately in our court before us at *Westminster*, The like, where the death happens after the issuing, and before the execution of the inquest, in K. R.
 to wit, in — term last past, (or, "in the — year of our reign,") by bill without our writ, impleaded *C. D.* being in the custody of the marshal of our marshalsea before us, of a plea of trespass on the case, &c. (or as the plea is,) declaring in the same plea against him, for that whereas, &c. (here recite the declaration), to the damage of the said *A. B.* of — as he said, and therefore he brought his suit, &c. And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that afterwards, to wit, in that same — term, (or, "in — term last past," or "in the — year aforesaid,") it was considered by our said court before us, that the said *A. B.* ought to recover his damages on occasion of the premises: But because it was unknown to our said court before us, what damages the said *A. B.* had sustained, on occasion of the premises aforesaid; therefore we commanded you, that by the oath of twelve honest and lawful men of your bailiwick, you should diligently inquire what damages the said *A. B.* had sustained, as well on occasion of the premises aforesaid, as for his costs and charges by him about his suit in that behalf expended; and that the inquisition which you should thereupon take, you should send to us at *Westminster*, on — next after — last past, under your seal, and the seals of those by whose oath you should take that inquisition, together with our writ to you thereupon directed; the same day was given to the said *A. B.* at the same place; as by the record and proceedings thereof, remaining in our said court before us at *Westminster* aforesaid, more fully and at large appears: And the said *A. B.* (or "*C. D.*") after interlocutory judgment had been given in form aforesaid, and before any assessment of damages had been made on our said writ of inquiry by us to you sent as aforesaid, for the purpose aforesaid, died, having first duly made

CHAP. XL. made and published his last will and testament, &c. (or, "died intestate," &c. as in the last but one); wherefore the said *E. F.* executor (or "administrator") as aforesaid, (or, "the said *A. B.*") hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* (or, to the said *G. H.* executor, or administrator, as aforesaid,) that he be before us at *Westminster*, on — next after —, to shew if he has or knows of any thing to say for himself, why the damages in the said action should not be assessed and recovered by the said *E. F.* executor (or "administrator") as aforesaid, (or, "by the said *A. B.*") according to the form of the statute in such case made and provided, if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, p. 529.)

(§ 92.)
The like, in
G. P. where the
writ of inquiry
was directed to
a former she-
riff.

George the Third, (§c.) To the sheriff of — greeting: Whereas *A. B.* lately in our court, to wit, in — term in the — year of our reign, before Sir *Vicary Gibbs* knight and his companions, then our justices of the Bench at *Westminster*, by our writ, impleaded *C. D.* &c. (as in the last precedent but one, to "his damages on occasion of the premises:") But because it was unknown to our said court, what damages the said *A. B.* had sustained on occasion thereof, it was commanded to the then sheriff of —, that by the oath of twelve good and lawful men of his bailiwick, he should diligently inquire, what damages the said *A. B.* had sustained, as well on occasion of the premises aforesaid, as for his costs and charges by him about his suit in that behalf expended; and that the inquisition which he should thereupon take, he should make appear to our justices at *Westminster*, on —, under his seal, and the seals of those by whose oath he should take that inquisition; as by the record and proceedings thereof, remaining in our said court at *Westminster* aforesaid, more fully and at large appears: Yet inquisition of the said damages still remains to be made; and the said *A. B.* (or "*C. D.*") after interlocutory judgment had been given in form aforesaid, and before any assessment of damages had been made on our said writ of inquiry, by us sent to the
said

said sheriff as aforesaid, for the purpose aforesaid, died, &c. CHAP. XL.
(as in the last precedent but one, to the end.)

George the Third, (&c.) To the sheriff of — greeting: (§ 93.)
Whereas *A. B.* lately in our court before us at *Westminster*,
to wit, in — term last past, (or, “in the — year of our reign,”) by bill without our writ, impleaded *C. D.* being in
the custody of the marshal of our marshalsea before us, of
a plea of trespass on the case, &c. (or as the plea is,) declar-
ing in the same plea against him, for that whereas, &c. (here
recite the declaration,) to the damage of the said *A. B.* of
—*l.* as he said, and therefore he brought his suit, &c. And
such proceedings were thereupon had in our said court be-
fore us at *Westminster* aforesaid, that afterwards, to wit, in
that same — term, (or, “in — term last past,” or “in
the — year aforesaid,”) it was considered by our said
court before us, that the said *A. B.* ought to recover his
damages, on occasion of the premises: But because it was un-
known, &c. (as in the last precedent but one, to the words “more
fully and at large appears”): And afterwards, a certain inqui-
sition was taken before you, by the oath of twelve honest
and lawful men of your bailiwick, whereby it was found, that
the said *A. B.* had sustained damages on occasion of the pre-
mises, to —*l.* besides his costs and charges by him about
his suit in that behalf expended, and for those costs and
charges to —*l.* And although the said damages have been
assessed in form aforesaid, yet final judgment for those da-
mages still remains to be given; and the said *A. B.* (or
“*C. D.*”) after interlocutory judgment had been given, and
the said damages assessed in form aforesaid, and before the
return of our said writ of inquiry by us to you sent as afore-
said, for the purpose aforesaid, (or, if the death happened
after the return of the writ of inquiry, “before final judg-
ment obtained in the said action,”) died, having first duly
made and published his last will and testament, &c. (or,
“died intestate,” &c. as before, p. 549.) ; wherefore the said
E. F. executor (or “administrator,”) as aforesaid, (or,
“the said *A. B.*”) hath humbly besought us to provide him
a proper remedy in this behalf: And we being willing that
what is just in this behalf should be done, command you,
that by honest and lawful men of your bailiwick, you make
known

CHAP. XL. known to the said *C. D.* (or, “to the said *G. H.* executor, or administrator, as aforesaid,”) that he be before us at *Westminster*, on — next after —, to shew if he has or knows of any thing to say for himself, why the damages aforesaid, in form aforesaid assessed, should not be adjudged to and recovered by the said *E. F.* executor (or “administrator”) as aforesaid, (or, “by the said *A. B.*”) according to the form of the statute in such case made and provided, if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, p. 529.)

(§ 94.)
Scire facias, for
a surviving
plaintiff, in
K. B.

George the Third, (&c.) To the sheriff of — greeting:
Whereas *A. B.* and *C. D.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *E. F.* (&c.) whereof the said *E. F.* is convicted, as appears to us of record; and afterwards, to wit, on — at — in your county, the said *C. D.* died, and the said *A. B.* then and there survived him; as by the information of the said *A. B.* in our said court before us, we have been given to understand: And now on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given, &c. (as before, p. 528, 9.)

(§ 95.)
The like,
against a sur-
viving defend-
ant, in K. B.

George the Third, (&c.) To the sheriff of — greeting:
Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* and *E. F.* (&c.) whereof the said *C. D.* and *E. F.* are convicted, as appears to us of record; and afterwards the said *E. F.* died, to wit, at — in your county, and the said *C. D.* there survived him; as by the information of the said *A. B.* in our said court before us, we have been given to understand: And now on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given, &c. (as before, p. 528, 9.)

(§ 96.)
The like, for
an executor, in
K. B.

George the Third, (&c.) To the sheriff of — greeting:
Whereas *A. B.* lately in our court before us at *Westminster*,
by

by bill without our writ, and by the judgment of the same CHAP. XL.
 court, recovered, (&c.); whereof the said *C. D.* is convicted,
 as appears to us of record; and afterwards, to wit, on — at
 — the said *A. B.* died, having first duly made and pub-
 lished his last will and testament in writing, and thereby con-
 stituted and appointed *E. F.* executor thereof; after whose
 death, the said *E. F.* duly proved the said last will and testa-
 ment of the said *A. B.* and took upon himself the burthen of
 the execution thereof; as by the information of the said
E. F. in our said court, we have been given to under-
 stand: And now on the behalf of the said *E. F.* executor
 as aforesaid, in our said court before us, we have been in-
 formed, that although judgment be thereupon given, yet exe-
 cution of the damages (or “debt and damages”) aforesaid
 still remains to be made to him; wherefore the said *E. F.*
 executor as aforesaid, hath humbly besought us to provide
 him a proper remedy in this behalf: And we being willing,
 &c. (as before, p. 528, 9.)

George the Third, (&c.) To the sheriff of — greeting: (§ 97.)
 Whereas *A. B.* lately in our court, to wit, in the term of The C. P.
 — in the — year of our reign, before Sir *Vicary Gibbs*
 knight and his companions, then our justices of the Bench at
Westminster, by the consideration and judgment of the same
 court, recovered against *C. D.* &c. (as before, p. 530, 31.); where-
 of the said *C. D.* is convicted, as by the record and proceed-
 ings thereof, remaining in our said court before our justices
 at *Westminster* aforesaid, manifestly appears: Yet execution
 of the said judgment still remains to be made; and after-
 wards, to wit, on — at —, the said *A. B.* died, &c. (as in
 the last, to “given to understand:”) And because we are
 willing, &c. (as before, p. 530.) to shew, (&c.) why the said
E. F. executor as aforesaid, ought not to have execu-
 tion, (&c.)

George the Third, (&c.) To the sheriff of — greeting: (§ 98.)
 Whereas *A. B.* our debtor, in our court before the barons The like, in the Exchequer.
 of our Exchequer at *Westminster*, heretofore, that is to say,
 in the term of — last past, (or, “in the — year of our
 reign,”) by the consideration and judgment of the same court,
 recovered, &c. (as before, p. 530, 31.); whereof the said *C. D.*
 is

CHAP. XL. is convicted, as by inspecting the rolls of our said Exchequer, appears to us : And although the said judgment be rendered, yet execution thereof still remains to be made ; and afterwards, to wit, on — at —, the said *A. B.* died, &c. (as in the last but one, to “given to understand :”) And we being willing, &c. (as before, p. 532.) to shew, (&c.) why the said *E. F.* executor as aforesaid, ought not to have execution, (&c.)

(§ 99.) *George the Third, (&c.)* To the sheriff of — greeting
The like, where the plaintiff died after verdict, and before judgment, in K. B. Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered, (&c.) ; whereof the said *C. D.* is convicted, as appears to us of record : And after the obtaining of the verdict, upon which the said judgment was so given as aforesaid, and within two terms then next following, to wit, on — at —, the said *A. B.* died, &c. (as before, p. 555. § 96.)

(§ 100.) *George the Third, (&c.)* To the sheriff of — greeting :
The like, against an executor, in K. B. Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered, (&c.) whereof the said *C. D.* is convicted, as appears to us of record ; and afterwards the said *C. D.* died, &c. (as before, p. 555. to the words “execution thereof”) ; as by the information of the said *A. B.* in our said court before us, we have been given to understand : And now on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the damages (or “debt and damages”) aforesaid still remains to be made to him ; wherefore, (&c.) : And we being willing, (&c.) command you, that by honest and lawful men of your bailiwick, you make known to the said *E. F.* executor as aforesaid, that he be before us at *Westminster*, on — next after — to shew if he has or knows of any thing to say for himself, why the said *A. B.* ought not to have his execution against him, of the damages (or “debt and damages”) aforesaid, to be levied of the goods and chattels, which were of the said *C. D.* at the time of his death, in the hands of the said *E. F.* as executor as aforesaid to be administered, according to the force form and effect of the said recovery,

recovery, if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, p. 529.):

George the Third, (&c.) To the sheriff of — greeting: (§ 101.)
Whereas *A. B.* lately in our court, to wit, in — term in The like, in C. P.
the — year of our reign, before Sir *Vicary Gibbs* knight and his companions, then our justices of the Bench at *Westminster*, by the consideration and judgment of the same court, recovered against *C. D.* &c. (as before, p. 530, 31); whereof the said *C. D.* is convicted, (&c.): Yet execution of the said judgment still remains to be made; and afterwards the said *C. D.* died, &c. (as before, p. 555. to the words, “execution thereof;”) as by the information, (&c.): And because we are willing, &c. (as before, p. 530.) to shew, &c. (as in the last,) if it shall seem expedient, (&c.); and have there the names, (&c.) and this writ. Witness Sir *Vicary Gibbs* knight, (&c.)

George the Third, (&c.) To the sheriff of — greeting: (§ 102.)
Whereas *A. B.* our debtor, in our court before the barons of The like, in the Exchequer.
our Exchequer at *Westminster*, heretofore, that is to say, in the term of — last past, (or “in the — year of our reign,”) by the consideration and judgment of the same court, recovered, &c. (as before, p. 530, 31.); whereof the said *C. D.* is convicted, (&c.): And although the said judgment be rendered, yet execution thereof still remains to be made; and afterwards the said *C. D.* died, &c. (as before, p. 555. to the words, “execution thereof;”) as by the information, (&c.) And we being willing, &c. (as before, p. 532.) to shew, &c. (as in the last but one,) if it shall seem expedient, (&c.): And in what manner, &c. (as before, p. 532.)

George the Third, (&c.) To the sheriff of — greeting: (§ 103.)
Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* (&c.) whereof the said *C. D.* is convicted, as appears to us of record; and afterwards, to wit, on — at —, the said *A. B.* died intestate; after whose death, to wit, on — at —, administration of all and singular the goods chattels and credits which were of the said *A. B.* at the time of his death, by *Charles* by divine providence archbishop of *Canterbury*, primate of all *England* and

CHAP. XL, and metropolitan, in due form of law was granted to *E. F.* as by the information of the said *E. F.* in our said court before us, we have been given to understand: And now on the behalf of the said *E. F.* in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the damages (or "debt and damages") aforesaid still remains to be made to him; wherefore the said *E. F.* administrator as aforesaid, hath humbly besought us to provide him a proper remedy in this behalf: And we being willing, &c. (as before, p. 528, 9.)

(§ 104.)
The like, in
C. P.

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* lately in our court, to wit, in the term of — in the — year of our reign, before Sir *Vicary Gibbs* knight and his companions, then our justices of the Bench at *Westminster*, by the consideration and judgment of the same court, recovered against *C. D.* &c. (as before, p. 530, 31.); whereof the said *C. D.* is convicted, (&c.): Yet execution of the said judgment still remains to be made; and afterwards, to wit, on — at —, the said *A. B.* died intestate, &c. (as in the last, to "proper remedy in this behalf:") And because we are willing, &c. (as before, p. 530.) to shew, (&c.) why the said *E. F.* administrator as aforesaid, ought not to have execution, (&c.)

(§ 105.)
The like, a-
gainst an ad-
ministrator, in
K. B.

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* (&c.); whereof the said *C. D.* is convicted, as appears to us of record: And now on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the damages (or "debt and damages") aforesaid still remains to be made to him; and the said *C. D.* is since dead intestate, and administration of all and singular the goods chattels and credits which were of the said *C. D.* at the time of his death, in due form of law was granted to *E. F.* as by the information of the said *A. B.* in our said court, we have been given to understand; wherefore, (&c.): And we being willing, (&c.) command you, that by honest and lawful men of your bailiwick, you make known

known to the said *E. F.* administrator as aforesaid, that he CHAP. XL.
 be before us at *Westminster*, on — next after —, to shew
 if he hath or knoweth of any thing to say for himself, why
 the said *A. B.* ought not to have his execution against him,
 of the damages (or “debt and damages”) aforesaid, to be
 levied of the goods and chattels which were of the said *C. D.*
 at the time of his death, in the hands of the said *E. F.* to
 be administered, according to the force form and effect of
 the said recovery, if it shall seem expedient for him so to do;
 and further to do and receive, &c. (as before, p. 529.)

George the Third, (&c.) To the sheriff of — greeting: (§ 106.)
 Whereas *A. B.* lately in our court, to wit, in the term of ^{The ill} C. P.
 — in the — year of our reign, before Sir *Vicary Gibbs*
 knight and his companions, then our justices of the Bench at
Westminster, by the consideration and judgment of the same
 court, recovered against *C. D.* &c. (as before, p. 530, 31.); where-
 of the said *C. D.* is convicted, (&c.): Yet execution of the
 said judgment still remains to be made; and the said *C. D.*
 is since dead intestate, &c. (as in the last, to “proper re-
 medy in this behalf:”) And because we are willing, &c. (as
 before, p. 530.) to shew &c. (as in the last,) if it shall seem
 expedient, (&c.); and have there the names, (&c.) and this
 writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of — greeting: (§ 107.)
 Whereas *A. B.* lately in our court before us at *Westminster*, ^{Scire facias a-}
 by bill without our writ, and by the judgment of the same ^{gainst tert-}
 court, recovered against *C. D.* (&c.); whereof the said *C. D.* ^{nants, in R. B.}
 is convicted, as appears to us of record: And although judg-
 ment be thereupon given, yet execution of the damages (or
 “debt and damages”) aforesaid still remains to be made to
 the said *A. B.*; and the said *C. D.* is since dead, as by the
 information of the said *A. B.* in our said court before us, we
 have been given to understand; wherefore the said *A. B.*
 hath humbly besought us to provide him a proper remedy in
 this behalf: And we being willing that what is just in this
 behalf should be done, command you, that by honest and
 lawful men of your bailiwick, you make known to the tenants
 of

CHAP. XL. of all the lands and tenements in your bailiwick, of which the said *C. D.* or any person or persons in trust for him, was or were seised on — next after —, in — term in the — year of our reign, on which day the judgment aforesaid was given, or at any time after, that they be before us at *Westminster*, on — next after —, to shew if they have or know of any thing to say for themselves, why the damages (or “debt and damages”) aforesaid ought not to be made of those lands and tenements, and rendered to the said *A. B.* according to the force form and effect of the said recovery, if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, p. 529.)

(§ 108.)
The like, against a surviving defendant, and the heir and tenants of another, in K. B.

George the Third, (&c.) To the sheriff of — greeting :
Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against, *C. D.* and *E. F.* &c. (stating the judgment;) whereof the said *C. D.* and *E. F.* were convicted, as appears to us of record: And although judgment be thereupon given, yet execution of the damages (or “debt and damages”) aforesaid still remains to be made to the said *A. B.*; and the said *C. D.* is since dead, as by the information of the said *A. B.* in our said court before us, we have been given to understand; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the heir of the said *C. D.* and also to the tenants of all the lands and tenements in your bailiwick, of which the said *C. D.* or any person or persons in trust for him, was or were seised on — next after — in the — year of our reign, on which day the judgment aforesaid was given, or at any time after, and also to the said *E. F.* that they be before us, on — next after —, that is to say, the said heir and tenants to shew if they have or know of any thing to say for themselves, why the damages (or “debt and damages”) aforesaid ought not to be levied on a moiety of those lands and tenements, and the said *E. F.* shew if he has or knows of any thing to say for himself, why the damages (or “debt and damages”) aforesaid ought not to be levied on the goods and chattels of him the said *E. F.*

(except

(except the oxen and beasts of his plough,) and also a moiety CHAP. XL.
of all the lands and tenements, of which the said *E. F.* or
any person or persons in trust for him, was or were seised on
the said — next after — in the — year aforesaid, on which
day the judgment aforesaid was given, or at any time after,
according to the force form and effect of the recovery afore-
said, if it shall seem expedient for him so to do; and further
to do and receive, &c. (as before, p. 329.)

George the Third, (&c.) To the sheriff of — greeting: (§ 109.)
Whereas *A. B.* deceased lately in our court before us at *Westminster*, by bill without our writ, and by the judgment Scire facias for
the residue, by
an executor or
administrator,
against the
heirs and ten-
nants of se-
veral defend-
ants, in K. B.
of the same court, recovered against *C. D.* and *E. F.* — *l.*
for his damages, (or “a certain debt of — *l.*”) &c.; whereof
the said *C. D.* and *E. F.* were convicted, as appears to us of
record: And whereas for having execution of the judgment
aforesaid, we lately by our writ commanded our sheriff of
—, that of the goods and chattels of the said *C. D.* and
E. F. in his bailiwick, he should cause to be made the
damages (or “debt and damages”) aforesaid; and that he should
have that money, &c. (as in a *feri facias*): And our com-
sheriff of — at that day returned to us, that by virtue
the said writ to him directed, he had caused to be made of, (&c.)
goods and chattels of the said *C. D.* and *E. F.* the sum of —
parcel of the damages (or “debt and damages”) aforesaid,
which money he had ready before us, at the day and place in
the said writ mentioned, to be rendered to the said *A. B.* in part
satisfaction of his damages (or “debt and damages”) aforesaid;
and that the said *C. D.* and *E. F.* had not, nor had either of
them, any other or more goods or chattels in his bailiwick,
whereof he could cause to be made the residue of the da-
mages (or “debt and damages”) aforesaid, or any part thereof:
And although judgment be thereupon given, yet execution
for — *l.* being the residue of the damages (or “debt and da-
mages”) aforesaid, still remains to be made; and as well the
said *A. B.* as the said *C. D.* and *E. F.* after the giving of the
judgment aforesaid, respectively died, as by the information
of *G. H.* executor of the last will and testament of the said
A. B. (or “administrator of all and singular the goods chat-
tels and credits which were of the said *A. B.* deceased, at
the time of his death, who died intestate,” or “with the will

CHAP. XL. of the said *A. B.* annexed,) we are given to understand ; wherefore the said *G. H.* executor (or "administrator") as aforesaid, hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to *I. K.* the son and heir of the said *C. D.* and the tenants of all and singular the lands and tenements in your bailiwick, whereof the said *C. D.* on the — day of — in the — year of our reign, on which day the judgment aforesaid was given, or ever afterwards, was seised in fee-simple, that they be before us at *Westminster*, on — next after —, to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves or himself, why the said — *L.* ought not to be made of those lands and tenements, and rendered to the said *G. H.* executor (or "administrator") as aforesaid, for the residue of the damages (or "debt and damages") aforesaid, according to the form and effect of the said recovery, if it shall seem expedient for him so to do; and also that by honest and lawful men of your bailiwick, you make known to the heir and tenants of all and singular the lands and tenements in your bailiwick, whereof the said *E. F.* on the said — day of — in the — year aforesaid, on which day the judgment aforesaid was given, or ever afterwards, was seised in fee-simple, that they be before us at *Westminster*, on the said — next after —, to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves or himself, why the said — *L.* ought not to be made of those last-mentioned lands and tenements, and rendered to the said *G. H.* executor (or "administrator") as aforesaid, for the residue of the damages (or "debt and damages") aforesaid, according to the form and effect of the said recovery, if it shall seem expedient for him so to do; and further to do and receive what our said court before us shall then and there consider of the said several and respective heirs and tertenants in this behalf: and here there then the names of those by whom you shall so make known to them, and writ. Witness, (&c.)

To *I. K.* and *L. M.* my bailiffs.

CHAP. XL.

— (to wit.) Summon *C. D.* that he be before the lord the king, (or in *C. P.* “before his majesty’s justices,” or, in the Exchequer, “before the barons of the king’s Exchequer,”) at *Westminster*, on —, to shew if he hath or knoweth of any thing to say for himself, why *A. B.* (or, in the Exchequer, “*A. B.* the king’s debtor”) should not have execution against him, for — *l.* damages, according to the force form and effect of a recovery, whercof he was convicted. Dated, (&c.)

(§ 110.)
Summons on
scire facias.

— Esquire, sheriff.

By virtue of this writ to me directed, by *G. H.* and *J. K.* honest and lawful men of my bailiwick, I have given notice to the within-named *C. D.* to be and appear before the lord the king, at the day and place within contained, to shew, &c. as by the said writ he is required, and as I am within commanded.

(§ 111.)
Return of
scire feci.

The answer of — sheriff.

The within-named *C. D.* hath not any thing in my bailiwick, where or by which I can give him notice, as I am within commanded; nor is the said *C. D.* found in the same.

(§ 112.)
Return of nihil.

The answer, (&c.)

By virtue of this writ to me directed, by *G. H.* and *J. K.* honest and lawful men of my bailiwick, I have given notice to the within-named *C. D.* to be and appear before the lord the king, at the day and place within contained, to shew, &c. as by the said writ he is required, and as I am within commanded: But the within named *E. F.* hath not any thing in my bailiwick, where or by which I can give him notice, as I am within commanded; nor is the said *E. F.* found in the same.

(§ 113.)
Scire feci as to
one, and nihil
as to another.

The answer, (&c.)

The within-named *E. F.* has no goods or chattels, which were of the within-named *C. D.* deceased at the time of his death, in the hands of the said *E. F.* to be administered, in my bailiwick, whereof I can cause to be made the damages (or “debt and damages”) within written, or any part thereof; but the said *E. F.* after the death of the said *C. D.* had divers goods and chattels, which were of the said *C. D.* at the

(§ 114.)
Return to
scire fieri
inquiry.

CHAP. XL. time of his death, in his hands to be administered, to the value of the damages (or "debt and damages") within written; which said goods and chattels the said *E. F.* afterwards, and before the coming of this writ to me, sold, wasted, eloiigned and converted to his own use, as appears by a certain inquisition taken before me in this behalf, on the oath of honest and lawful men of my said bailiwick, and to this writ annexed: And I further certify, that the said *E. F.* hath nothing in my bailiwick, where or by which I can make known to him, as by the said writ I am commanded; nor is he found in the same: The residue of the execution of this writ appears in a certain inquisition hereunto annexed.

The answer, (&c.)

(§ 115.)
Inquisition
thereon.

An inquisition indented, taken at — on the — day of — in the — year of the reign of our sovereign lord *George* the third, now king of the united kingdom of *Great Britain* and *Ireland*, &c. before — sheriff of the county aforesaid, by virtue of a writ of our said lord the king directed to the said sheriff, and to this inquisition annexed, to inquire of and upon certain matters in the said writ contained and specified, by the oath of *G. H.* (&c.) honest and lawful men of the bailiwick of the said sheriff, who upon their oath aforesaid say, that *E. F.* in the said writ named, after the death of the said *C. D.* in the said writ also named, had divers goods and chattels, which were of the said *C. D.* at the time of his death, in the hands of him the said *E. F.* to be administered, to the value of the damages (or "debt and damages") in the said writ specified; which said goods and chattels the said *E. F.* hath sold, wasted, eloiigned and converted to his own use. In witness whereof, as well the said sheriff, as the jurors aforesaid, have caused their seals to be affixed to this inquisition, the day and year above-mentioned.

(§ 116.)
Nihil, to scire
facias against
an heir and
tennants.

I do hereby certify, that there is no heir, nor are there any tenants, nor is there any tenant, of any lands or tenements in my bailiwick, whereof the within-named *C. D.* on the day of giving the within-mentioned judgment, or ever afterwards, was seised in fee-simple, to whom I can make known, as by the said writ I am commanded.

The answer, (&c.)

The

The execution of this writ appears in the schedule hereto annexed. CHAP. XL.
(§ 117.)

The answer, (&c.)

Nihil as to the heir, and *scire feci* to the tenants of one defendant; and *nihil* as to the heir and tenants of another.

I. K. in the annexed writ named, hath nothing in my bailiwick, where or by which I can make known to him, as by the said writ I am commanded; nor is the said *I. K.* found in the same: And I have by — and — good and lawful men of my bailiwick, given notice to *L. M.* tenant of — messuages, (&c.) with the appurtenances, in the parish of — in my bailiwick, also to *N. O.* tenant of — acres of land, (&c.) with the appurtenances, in the said parish of — in my bailiwick, (&c.) which were the messuages, lands and tenements of the said *C. D.* in the said writ named, in his life-time, on the day of giving the judgment in the said writ mentioned, of which the said *C. D.* then and after was seised in fee-simple, to be before the lord the king, at the day and place in the said writ contained, to shew in manner therein mentioned: And I do hereby further certify, that there are no tenants, nor is there any tenant, of any other lands or tenements in my bailiwick, whereof the said *C. D.* on the day of giving the said judgment, or ever afterwards, was seised in fee-simple, to whom I can make known, as by the said writ I am also commanded: And I do hereby also certify, that there is no heir, nor are there any tenants, nor is there any tenant, of any lands or tenements in my bailiwick, whereof *E. F.* in the annexed writ named, on the day of giving the said judgment, or ever afterwards, was seised in fee-simple, to whom I can make known, as by the said writ I am also commanded.

The answer, (&c.)

George the Third, (&c.) To the sheriff of — greeting: (§ 118.)
Whereas, &c. (as in the first writ, inserting these words, after return to the sheriff, "as before we have commanded you," altering the *teste* and return.) *Alias scire facias.*

Rule

CHAP. XL

(§ 119.)
Rule for judgment.

B. against D.

Rule on *scire facias*.

(§ 120.)
Entry of proceedings, and judgment by default in *scire facias*, upon the return of *scire feci*, in the King's Bench or Exchequer.

As yet of — term, in the — year of the reign of King *George* the Third. Witness *Edward* Lord *Ellenborough*, (or, in the Exchequer, beginning with the *placita*, as before p. 218.)

— (to wit.) Our lord the king sent to his sheriff of —, his writ close in these words, that is to say : *George* the third, &c. (here copy the *scire facias* to the end, and proceed as follows :) At which day, before our said lord the king at *Westminster*, comes (or, in the Exchequer, “At which day comes here,”) the said *A. B.* in his proper person; and the sheriff, to wit, — sheriff of — aforesaid, now here returns, that by — and — honest and lawful men of his bailiwick, he has given notice to the said *C. D.* to appear before our said lord the king, (or, in the Exchequer, “before the barons of his majesty's Exchequer,) at the day and place in the said writ contained, to shew cause as by the said writ he is required, and as the said sheriff is therein commanded; and the said *C. D.* although on that day solemnly demanded, comes not, but makes default; Therefore it is considered, that the said *A. B.* have his execution against the said *C. D.* of the damages (or “debt and damages”) aforesaid, according to the force and effect of the said recovery, by the default of the said *C. D.* &c.

(§ 121.)
The like, upon two *nilis* returned, in the King's Bench or Exchequer.

— (to wit.) Our lord the king sent to his sheriff of —, his writ close in these words, that is to say : *George* the third &c. (here copy the first *scire facias* to the end, and proceed as follows) : At which day, before our said lord the king at *Westminster*, came (or, in the Exchequer, “At which day comes here,”) the said *A. B.* in his proper person; and the sheriff, to wit, — sheriff of — aforesaid, thereupon returned to our said lord the king, that the said *C. D.* had not any thing in his bailiwick, where or by which he could make known to him, as by the said writ he was commanded, nor was he found in the same; and the said *C. D.* came not: Therefore, as before, it was commanded to the sheriff, that by

by honest and lawful men of his bailiwick, he should make known to the said *C. D.* that he should be before our said lord the king, (or, in the Exchequer, "before the barons of the Exchequer of our said lord the king") at *Westminster*, on — (the return of the *alias*,) to shew in form aforesaid, if, &c. and further, &c.; the same day was given to the said *A. B.* there, &c.: At which day, before our said lord the king at *Westminster*, comes (or, in the Exchequer, "At which day comes here," the said *A. B.* in his proper person; and the said sheriff of — as before returns, that the said *C. D.* hath not any thing in his bailiwick, where or by which he can make known to him, as by the said last-mentioned writ he is commanded, nor is he found in the same; and the said *C. D.* although on that day solemnly called, comes not, but makes default: Therefore it is considered, that the said *A. B.* have his execution against the said *C. D.* for the damages (or "debt and damages") aforesaid, according to the force form and effect of the said recovery, by the default of the said *C. D.* &c.

The entry of *E. F.* gentleman, one, &c., of the term of —, 54 *Geo. III.* 18—.

(§ 122.)

Docket-paper in K. B. where the *scire facias*'s are returnable the same term.

Middlesex, Entry of two *scire facias*'s in debt, between *A. B.* plaintiff and *C. D.* defendant, for — *l.* debt, and — damages. } Roll —.

Middlesex, Entry of one *scire facias* in debt, between *A. B.* plaintiff and *C. D.* defendant, with an award of the second, for — *l.* debt, and — damages. } —.

(§ 123.)

The like, where they are returnable in different terms.

Scire facias to revive.

Middlesex, *A. B.* - - - - plaintiff. } Roll
C. D. - - - - defendant. } —.

(§ 124.)

Entry on docket-roll, in C. P.

— (to wit.) The sheriff was commanded, whereas *A. B.* lately in the court of the lord the king here, to wit, in — term the — year of his reign, before Sir *Vicary Gibbs* knight and his companions, then his majesty's justices of the bench here, to sit at *Westminster*, by the consideration and judgment of the same court, recovered, &c. (reciting the

(§ 125.)

Entry of proceedings, and judgment by default in *scire facias*, upon the return of *scire facis*, in C. P.

CHAP. XL. writ of *scire facias*, to the following words "as on the information of the said *A. B.* the said lord the king hath been given to understand;" and because, &c. that by honest, &c. he should make known to the said *C. D.* that he be here at this day, to wit, on —, to shew if any thing, &c. why the said *A. B.* ought not to have execution of the damages (or "debt and damages") aforesaid, according to the force form and effect of the said recovery if, &c. And now here at this day, comes the said *A. B.* by *E. F.* his attorney, and offers himself on the fourth day against the said *C. D.* in the plea aforesaid; and the said *C. D.* although on that day solemnly demanded, comes not; and the sheriff, to wit, — sheriff of — aforesaid, now here returns, that by — and — honest and lawful men of his bailwick, he has made known to the said *C. D.* that he be here, on the day in the said writ mentioned, to shew cause as by the said writ he is required, and as the said sheriff is therein commanded: And hereupon the said *A. B.* prays execution against the said *C. D.* of the damages (or "debt and damages") aforesaid, according to the force form and effect of the said recovery, to be adjudged to him, &c. Therefore it is considered, that the said *A. B.* have execution against the said *C. D.* of the damages (or "debt and damages") aforesaid, according to the force form and effect of the said recovery, by the default of the said *C. D.* &c.

Judgment
signed, (&c.)

(§ 125.)
The like, on two
nila returned,
the same
term, in C. P.

— (to wit.) The sheriff was commanded, &c. (as in the last, to the end of the recital of the first writ of *scire facias*, and then as follows:) And now here at this day, comes the said *A. B.* by *E. F.* his attorney, and offers himself on the fourth day against the said *C. D.* in the plea aforesaid; and the said *C. D.* although on that day solemnly demanded, comes not; and the sheriff, to wit, — sheriff of — aforesaid, now here returns, that the said *C. D.* has nothing in his bailwick, where or by which he can make known to him, as by the said writ he is commanded, nor is the said *C. D.* found in the same: Therefore, as before, the said sheriff is commanded, that by honest, &c. he make known to the said *C. D.* that he be here at this day, to wit, on —, to shew in form aforesaid, if, &c. At which day, comes here the said *A. B.* by his said attorney, and offers himself on the fourth day against the said *C. D.* in the plea aforesaid; and the said

said *C. D.* although on that day solemnly demanded, comes not; **CHAP. XL.** and the said sheriff, as before, now here returns, that the said *C. D.* hath nothing in his bailiwick, where or by which he can make known to him, as by the said last-mentioned writ he is commanded, nor is the said *C. D.* found in the same: And hereupon the said *A. B.* prays execution against the said *C. D.* of the damages (or "debt and damages") aforesaid, according to the force form and effect of the said recovery, to be adjudged to him, &c. Therefore it is considered, that the said *A. B.* have execution against the said *C. D.* of the damages (or "debt and damages") aforesaid, according to the force form and effect of the said recovery, by the default of the said *C. D.* &c.

Judgment
signed, (&c.)

For the mode of entering the proceedings, where the writs are returnable in different terms, *vide ante*, p. 509, 10.

— (to wit.) The sheriff was commanded, &c. (as in the last, to the end of the second return of *nil*, and then as follows:) And hereupon the said *A. B.* prays execution against the said *E. F.* executor as aforesaid of the damages (or "debt and damages") aforesaid, to be levied of the goods and chattels which were of the said *C. D.* at the time of his death, in the hands of the said *E. F.* as executor as aforesaid, to be administered, according to the force form and effect of the said recovery, to be adjudged to him, &c. Therefore it is considered, that the said *A. B.* have execution against the said *E. F.* executor as aforesaid, of the debt (or "debt and damages") aforesaid, to be levied in form aforesaid, by the default of the said *E. F.* &c.

(§ 127.)
The like, against
an executor, in
C. P.

— (to wit.) Our lord the king sent to his sheriff of — his writ close in these words, that is to say: *George* the third, &c. (there copy the *scire facias* to the end, and proceed as follows): At which day, before our said lord the king at *Westminster*, comes the said *E. F.* executor (or administrator) as aforesaid, in his proper person; and the sheriff, to wit, — sheriff of — aforesaid, now here returns, that the said *C. D.* hath not any thing in his bailiwick, where or by which he can give him notice, as by the said writ he is commanded, nor is the said *C. D.* found in the same; and the said *C. D.* comes not, but makes default: Therefore, as before,

(§ 129.)
The like, by
an executor or
administrator,
on the statute
& 9 W. III.
c. 11. § 6.
in K. B.

CHAP. XL. fore, the sheriff is commanded, that by good and lawful men of his bailiwick, he make known to the said *C. D.* that he be before our said lord the king at *Westminster*, on — next after —, to shew in form aforesaid, if, &c. and further, &c. the same day is given to the said *E. F.* executor (or administrator) as aforesaid, at the same place: At which day, before our said lord the king at *Westminster*, comes the said *E. F.* executor (or administrator) as aforesaid, in his proper person; and the said sheriff of — as before returns, that the said *C. D.* hath not any thing in his bailiwick, where or by which, he can give him notice, as by the said last-mentioned writ he is commanded, nor is the said *C. D.* found in the same; and the said *C. D.* being solemnly demanded, comes not, but makes default: And hereupon the said *E. F.* executor (or administrator) as aforesaid, prays that the damages in the said action may be assessed, and recovered by him the said *E. F.* executor (or administrator) as aforesaid, according to the form of the statute in such case made and provided: Therefore it is considered, that the damages aforesaid be assessed, and recovered by the said *E. F.* executor (or administrator) as aforesaid, according to the form of the statute aforesaid, by the default of the said *C. D.* &c.: And because it is unknown to the court of our said lord the king now here, what damages the said *A. B.* in his life-time sustained, on occasion of the premises, therefore the sheriff is commanded, that by the oath of twelve honest and lawful men of his bailiwick, he diligently inquire, what damages the said *A. B.* in his life-time sustained, as well by reason of the premises, as for his costs and charges by him laid out about his suit in this behalf; and the inquisition which the said sheriff shall thereupon take, he make appear to our said lord the king at *Westminster*, on — next after —, under his seal, and the seals of those by whose oath he shall take the said inquisition, together with the writ of our said lord the king to him thereupon directed; the same day is given to the said *E. F.* executor (or administrator) as aforesaid, at the same place: At which day, before our said lord the king at *Westminster* aforesaid, comes the said *E. F.* executor (or administrator) as aforesaid, in his proper person; and the sheriff of — aforesaid now here returns, a certain inquisition indented, taken before him, at —, on — the — day of — in the — year

year of the reign of our said lord the king, by the oath of **CHAP. XL.**
 twelve honest and lawful men of his **Willsiwick**; by which
 it is found, that the said *A. B.* in his life-time sustained da-
 mages, by reason of the premises, besides his costs and charges
 by him laid out about his suit in this behalf, to — *l.* and
 for those costs and charges to — *l.* Therefore it is const- Judgment
 dered, that the said *E. F.* executor (or administrator) as signed, (&c.)
 aforesaid, do recover against the said *C. D.* the damages
 aforesaid, by the said inquisition in form aforesaid assessed,
 and also — *l.* for the costs and charges of this suit, by the
 court of our said lord the king now here adjudged of increase
 to the said *E. F.* executor (or administrator) as aforesaid,
 and with his assent; which said damages costs and charges
 in the whole amount to — *l.*; and the said *C. D.* in Mercy.
 mercy, &c.

B. against D. (§ 129.)
 Note of ap-
 pearance, in
 K. B.

I appear for the defendant, upon the writ of *scire facias*
 issued in this cause.

Yours, &c.

To Mr. *E. F.*

G. H. attorney.

— (to wit.) Appearance for *C. D.* at the suit of *A. B.* to (§ 130.)
 a *scire facias*, (or “*alias scire facias*,”) returnable on —. *Procipe for ap-*
 pearance, in
 C. P.

G. H. attorney.

— 18 —

— term, in the — year of the reign of king *George* (§ 131.)
 the Third, *Declaration in*
scire facias

— (to wit.) Our lord the king sent to his sheriff of —, upon the re-
 his writ close in these words, that is to say: *George* the third, turn of *scire*
 &c. (copy the *scire facias*, and proceed as before, p. 566. to *faci*, in the
 the end of the sheriff's return, and conclude as follows :) and King's Bench
 the said *C. D.* being solemnly demanded, comes by *G. H.* or Exchequer.
 his attorney: And hereupon the said *A. B.* prays that exe-
 cution may be adjudged to him against the said *C. D.* of the
 damages (or “*debt and damages*”) aforesaid, according to the
 force form and effect of the said recovery, &c.

— (to

CHAP. XL. — (to wit.) Our lord the king sent to his sheriff of —, his writ close in these words, that is to say: *George* the third, &c. (here copy the *scire facias*, to the end, and proceed as follows): At which day, before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person; and the sheriff, to wit, — sheriff of — aforesaid, now here returns, &c. (as before, p. 560): and the said *C. D. E. F.* and *G. H.* being solemnly demanded, the said *G. H.* comes in his proper person; but the said *C. D.* and *E. F.* do not, nor does either of them come, but make default: And hereupon the said *A. B.* prays that execution may be adjudged to him for the damages (or “debt and damages”) aforesaid, according to the force form and effect of the said recovery, &c.: But because it is convenient that there should be but one award of execution in this behalf, therefore let all further proceedings against the said *C. D.* and *E. F.* be stayed, until it shall be determined, whether execution ought to be awarded against the said *G. H.* &c.

(§ 133.) — (to wit.) Our lord the king sent to his sheriff of —, his writ close in these words, that is to say: *George* the third, &c. (here copy the *scire facias* to the end, and proceed as follows:) At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by *E. F.* his attorney; and the sheriff, to wit, — sheriff of — aforesaid, now here returns, &c. (as before, p. 566) and the said *C. D.* being solemnly demanded, comes by *G. H.* his attorney: And hereupon the said *A. B.* prays that execution may be adjudged to him against the goods and chattels, which have become the goods and chattels of the said *C. D.* since the time of his obtaining his certificate under the said last-mentioned commission of bankrupt, and also against the estate and effects of the said *C. D.* (the tools of trade, the necessary household goods and furniture, and necessary wearing apparel of the said *C. D.* and his wife and children only excepted,) for the damages (or “debt and damages”) aforesaid, according to the force form and effect of the said recovery, and of the statute in such case made and provided, &c.

(§ 134.)
The like, on
two *nihil*, re-

— (to wit.) Our lord the king sent to his sheriff of —, his writ close in these words, that is to say: *George* the third,

third, &c. (here copy the first *scire facias*, and proceed as before, p. 566, 7. to the end of the second return of *nihil*, and conclude as follows :) and the said *C. D.* being solemnly demanded, comes by *G. H.* his attorney; And hereupon the said *A. B.* prays that execution may be adjudged to him against the said *C. D.* of the damages (or “debt and damages”) aforesaid, according to the force form and effect of the said recovery, &c.

CHAP. XL.
turned, in the
King's Bench
or Exchequer.

— (to wit.) Our lord the king sent to his chancellor of his county-palatine of *Lancaster*, his writ close in these words, that is to say: *George* the third, &c. (here copy the first *scire facias* to the end, and proceed as follows): At which day, before our said lord the king at *Westminster*, came the said *A. B.* in his proper person; and the chancellor, to wit, the right honourable — chancellor of the said county-palatine, returned to our said lord the king, that by virtue of the said writ to him directed and delivered, by another writ under the seal of the said county-palatine of *Lancaster* duly made, and directed to the sheriff of the said county, the said chancellor had commanded the said sheriff, as he was by the said first-mentioned writ commanded; which said sheriff, to wit, — in answer to the said writ to him directed, said that the said *E. F.* had not any thing in his bailiwick, where or by which he could give him notice, as by the said last-mentioned writ he was commanded, nor was the said *E. F.* found in the same: Therefore, as before, it was commanded to the said chancellor, that by another writ under the seal of the said county-palatine to be duly made, and directed to the sheriff of the said county-palatine, the said chancellor should command the same sheriff, that by good and lawful men of his bailiwick, he should make known to the said *E. F.* that he should be before our said lord the king at *Westminster*, on —, to shew in form aforesaid, if, &c. and further, &c. the same day was given to the said *E. F.* there, &c. At which day, before our said lord the king at *Westminster*, came the said *A. B.* in his proper person; and the said chancellor of the said county-palatine, as before, returned to our said lord the king, that by virtue of the said last-mentioned writ to him directed and delivered, by another writ under the seal of the said county-palatine of *Lancaster* duly made, and directed

(§ 135)
The like, to a
county palatine,
in K. B.

CHAP. XL. to the sheriff of the said county, the said chancellor had commanded the said sheriff, as he was by the same writ commanded; which said sheriff, to wit, the said —, in answer to the said last-mentioned writ to him directed, said that the said *E. F.* had not any thing in his bailiwick, where or by which he could give him notice, as by the said last-mentioned writ he was commanded, nor was the said *E. F.* found in the same; and the said *E. F.* being solemnly demanded, comes by *G. H.* his attorney: And hereupon the said *A. B.* prays that execution may be adjudged to him of the damages (or “debt and damages”) aforesaid, according to the force form and effect of the said recovery, &c.

(§ 136.)

The like, upon
the return of
scire feci, in
C. P.

In the Common Pleas.

— term, in the — year of the reign of
king *George* the Third.

— (to wit.) The sheriff was commanded, &c. (as before, p. 567, 8. to the end of the sheriff's return, and conclude as follows :) and the said *C. D.* at that day, being solemnly demanded, comes by *G. H.* his attorney: And hereupon the said *A. B.* prays that execution may be adjudged to him against the said *C. D.* of the damages (or “debt and damages”) aforesaid, according to the force form and effect of the said recovery, &c.

(§ 137.)

The like, upon
two *nilis* re-
turned, in
C.

In the Common Pleas.

— term, in the — year of the reign of
king *George* the Third.

— (to wit.) The sheriff was commanded, &c. (as before, p. 568, 9. to the end of the second return of *nilis*, and conclude as follows :) and the said *C. D.* at that day, being solemnly demanded, comes by *G. H.* his attorney: And hereupon the said *A. B.* prays that execution may be adjudged to him of the damages (or “debt and damages”) aforesaid, according to the force form and effect of the said recovery, &c.

(§ 138.)

The like, by an
executor, on
statute 8 & 9
W III. c. 11.
§ 6.

And hereupon the said *E. F.* executor as aforesaid, prays that the damages in the said action may be assessed and recovered by him the said *E. F.* according to the form of the statute in such case made and provided, &c. And the said *E. F.* brings into court here, the letters testamentary of the
said

said *A. B.* deceased, whereby it fully appears to the said CHAP. XL. court here, that the said *E. F.* is executor of the last will and testament of the said *A. B.* and hath execution thereof, &c.

And hereupon the said *E. F.* executor as aforesaid, prays that execution may be adjudged to him against the said *C. D.* of the damages (or "debt and damages") aforesaid, according to the force form and effect of the said recovery, &c. (*Profert in curia* of the letters testamentary, as in the last.)

(§ 139)
The like, by an executor, where plaintiff due final judgment.

(As before, § 134. to the prayer of execution, which is as follows). And hereupon the said *A. B.* prays that execution may be adjudged to him, against the said *C. D.* as executor as aforesaid, for the damages (or "debt and damages") aforesaid, to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* to be administered, according to the force form and effect of the said recovery, &c.

(§ 140)
The like, against an executor.

— (to wit.) Our lord the king sent to his sheriff of —, his writ close in these words, that is to say: *George* the third, &c. (here copy the first writ of *scire facias* to the end, and proceed as follows) At which day, before our said lord the king at *Westminster*, comes the said *G. H.* executor (or "administrator") as aforesaid, by — his attorney; and the sheriff, to wit, — sheriff of — aforesaid, thereupon certifies and returns to our said lord the king, that *I. K.* in the said writ named, had nothing in his bailiwick, &c. (here recite the sheriff's return, for which *vide ante*, p. 565): and the said *I. K.* at the same day, being solemnly demanded, comes by — his attorney; but the said *L. M.* (&c.) although solemnly demanded, come not, but make default: Therefore it is considered, that the said *G. H.* executor (or "administrator") as aforesaid, have his execution against the said *L. M.* (&c.) of the said — residue of the damages (or "debt and damages") aforesaid, to be levied of the messuages, lands and tenements, whereof they are returned tenants as aforesaid, according to the force form and effect of the said recovery, by the default of the said *L. M.* (&c.): But let the said execution be stayed, until it be determined, whether the said *G. H.* executor (or "administrator") as aforesaid, ought

(§ 141.)
Declaration in *scire facias* for the residue, by an executor or administrator, against the heirs and tenants of several defendants, where the heir of one defendant appears, and the others make default, on the return of *scire facias*, and two *nil* are returned, as to the heir and returnant of the other defendant, in

CHAP. XL. to have execution against the said *I. K.* of the said — *l.* residue, &c. And the heir and tenants of all and singular the lands and tenements whereof the said *E. F.* was seised as aforesaid, although solemnly demanded, come not, but make default: Therefore, as before, the sheriff is commanded, that by honest and lawful men of his bailiwick, he make known to the heir and tenants of all and singular the lands and tenements in his bailiwick, whereof the said *E. F.* on the said — day of — in the — year aforesaid, on which day the judgment aforesaid was given, or ever afterwards, was seised in fee-simple, that they be before our said lord the king at *Westminster*, on — next after —, to shew in form aforesaid, &c. and further, &c.; the same day is given to the said *G. H.* executor (or “administrator”) as aforesaid, and also to the said *I. K.* at the same place: At which day, before our said lord the king at *Westminster*, come as well the said *G. H.* executor (or “administrator”) as aforesaid, as the said *I. K.* by their respective attornies aforesaid; and the sheriff of — aforesaid now here certifies and returns to our said lord the king, that there is no heir, nor are there any tenants, nor is there any tenant, of any lands or tenements in his bailiwick, whereof the said *E. F.* in the said writ named, on the day of giving the judgment in the said writ mentioned, or ever afterwards, was seised in fee-simple, to whom the said sheriff can make known, as by the said last-mentioned writ he is commanded; and the said last-mentioned heir and tenants, although solemnly demanded, come not, but again make default: And hereupon the said *G. H.* executor (or “administrator”) as aforesaid, prays that execution may be adjudged to him against the said *I. K.* of the said — *l.* residue of the damages (i. e. “debt and damages”) aforesaid, to be levied of the lands and tenements whereof the said *I. K.* on the said — day of — in the — year aforesaid, on which day the judgment aforesaid was given, or ever afterwards, was seised in fee-simple, and which have descended and come to the said *I. K.* as the heir of the said *C. D.* according to the force form and effect of the said recovery, &c.

✠

✠

(§ 190)
Replication,
and answer;

And the said *A. B.* inasmuch as he cannot deny the several matters above pleaded by the said *C. D.* but admits the same

to be true, prays judgment, and that execution may be ad-
 judged to him of the damages aforesaid, to be levied, as to
 —/ part thereof, of the goods and chattels so as, aforesaid
 acknowledged to be in the hands of the said *C. D.* to be ad-
 ministered, and as to the residue thereof, to be levied of
 the goods and chattels which were of the said *E. F.* at the
 time of his death, and which shall hereafter come to the hands
 of the said *C. D.* to be administered, according to the force
 form and effect of the said recovery. Therefore it is consi-
 dered, that the said *A. B.* have his execution against the said
C. D. of the said damages, to be levied in form aforesaid,
 according to the force form and effect of the said recovery;
 and the said *C. D.* in mercy, &c.

(To the end of the demurrer-book, and then as follows)

At which day, before our said lord the king at *W. Winchester*,
 come the parties aforesaid, by their respective attorneys aforesaid;
 whereupon all and singular the pleas being seen, and
 by the court here fully understood, and mature deliberation
 being thereupon had, it appears to the said court here, that
 the said plea by the said *C. D.* in manner and form aforesaid
 above pleaded, and the matters therein contained, are not
 sufficient in law to bar the said *A. B.* from having execution
 against the said *C. D.* for the debt and damages aforesaid,
 according to the force form and effect of the said recovery.
 Therefore it is considered, that the said *A. B.* have execution
 * against the said *C. D.* for the debt and damages aforesaid, to
 be levied of the goods and chattels which were of the said
E. F. at the time of his death, in the hands of the said *C. D.*
 as executor as aforesaid to be administered, according to the
 force form and effect of the said recovery. And for that
 it also appears to the said court here, that the said *A. B.* hath
 obtained the said award of execution, after demurrer joined
 in this suit, on the said plea as aforesaid; it is further consi-
 dered, that the said *A. B.* do recover against the
 —/ for his costs and charges by him about his suit in this
 behalf expended, according to the form of the statute in such
 case made and provided to be levied of the goods and chat-
 tels which were of the said *E. F.* at the time of his death,
 in the hands of the said *C. D.* as executor as aforesaid to be
 administered, if the said *C. D.* hath so much thereof in his

CHAP. XL. hands to be administered ; and if he hath not so much thereof in his hands to be administered, then the said —/ to be levied of the proper goods and chattels of the said *C. D.* ; and that the said *A B.* have also execution thereof, &c.

The ~~due~~ in *scire facias* on judgments, is similar to that against bail, for which *vide ante*, p. 515 and for writs of execution, after *scire facias*, by or against executors or administrators, *vide ante*, p. 406 &c

CHAP. XLI.

Of Error.

— (to wit.) Writ of error, *coram nobis*, for *C. D.* at the suit of *A. B.* (or, if by plaintiff, “for *A. B.* against *C. D.*”) on a judgment in *case*, (or as the judgment is,) returnable on —.

(§ 1.)
Præcipe for writ
of error, *coram
nobis*.

G. II. attorney.

— 18—.

George the Third, (&c.) To our justices assigned to hold pleas in our court before us, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before us, by bill, between *A. B.* and *C. D.* of a plea of trespass on the *case*, (or “of a certain debt, which the said *A. B.* demanded of the said *C. D.*”) as it is said, which said record and proceedings now remain before us, as it is said, manifest error hath intervened, to the great damage of the said *C. D.* (or, if the writ of error be brought by *baron* and *feme*, on a judgment against the *feme*, “to the great damage of *E. D.* and the said *C.* his wife,”) as by his (or “then”) complaint we are informed: We being willing that the error, if any there be, should in due manner be corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, that if judgment be thereupon given, then the record and proceedings aforesaid being inspected, you cause to be further done thereupon, for correcting that error, what of right, and according to the law and custom of *England*, ought to be done. Witness ourself at *Westminster*, the — day of — in the — year of our reign.

(§ 2.)
Writ of error,
coram nobis.

George the Third, (&c.) To our justices assigned to hold pleas in our court before us, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before Sir *Vicary Gibbs*

(§ 3.)
The like, after
an abatement
of a former
writ.

CHAP. XLI. knight and his companions, our justices of the bench, by our writ, between *A. B.* and *C. D.* late of —, of a plea of trespass on the *case* (or as the plea is), as it is said, which said record and proceedings, by reason of error happening therein, we have caused to be brought, and the same now remain before us, as it is said, manifest error hath intervened, to the great damage of *E. F.* administrator of all and singular the goods chattels and credits, which were of the said *A. B.* who is dead intestate, as it is said: as by the complaint of the said *E. F.* we are informed: We being willing that the error, if any there be, should in due manner be corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, &c. (as before.)

(§ 4.)
Writ of error
for reversing
outlawry, in
K. B.

George the Third, (&c.) To our justices assigned to hold pleas before us, greeting: Forasmuch as in the record and process, as also in the publication of an outlawry, published against *C. D.* late of —, in a plea of, (&c.) whereupon he is outlawed in *London*, (or in the county of —,) at the suit of *A. B.* returnable before us, as it is said, manifest error hath intervened, to the great damage of the said *C. D.* as by his complaint we are informed: We willing that the said error, if any there be, should be duly amended, and full and speedy justice done to the said *C. D.* in this behalf, do command you, that if the said outlawry be returned before us, as hath been said, then inspecting the said record and process, you may cause further to be done therein, for annulling the said outlawry for error, as of right, and according to the law and custom of *England*, shall be meet to be done. Witness ourself, (&c.)

By Sir *William Garrow* knight,
attorney-general of our lord
the king.

(§ 5.)
The like in
C. P. after the
death of the
outlaw.

George the Third, (&c.) To our right trusty and well-beloved Sir *Vicary Gibbs* knight, our chief-justice of the Bench, greeting: Forasmuch as in the record and process, and also in the publication of an outlawry published against *C. D.* late of — in his life-time, now deceased, whereupon he was outlawed in *London*, (or in the county of —,) at the suit of *A. B.*

A. B. in a plea wherefore with force and arms the close of **CHAP. XLI.**
the said *A. B.* at — he broke, and other wrongs to him did,
to the great damage of the said *A. B.* and against our peace,
and also in a plea of trespass on the case upon promises, to
the damage of the said *A. B.* of — *l.* as he said, and re-
turnable before you and your associates, our justices of the
Bench, as it is said, manifest error hath intervened, to the
great damage of the said *C. D.* in his life-time, and of
E. F. and *G. H.* executors of the last will and testament of
the said *C. D.* since his death, as by the complaint of the
said *E. F.* and *G. H.* executors as aforesaid, we are informed :
We willing that the said error, if any there be, should be duly
amended, and full and speedy justice done to the said *E. F.*
and *G. H.* executors as aforesaid in this behalf, do command
you, that if the said outlawry be returned before you and
your associates, our said justices in the Bench aforesaid, as
hath been said, then inspecting the said record and process,
&c. (as in the last)

George the Third, (&c.) To the judges of our court of (§ 6.)
our palace at *Westminster*, and to each of them, greeting : Writ of error
Because in the record and proceedings, and also in the giving from an infe-
of judgment, in a plaint which was before you, in the court rior court, to
of our palace aforesaid, without our writ, between *A. B.* and the King's
C. D. of a plea of trespass on the case, (or as the plea is,) as Bench or Com-
it is said, manifest error hath intervened, to the great da- mon Pleas.
mage of the said *C. D.* as by his complaint we are informed :
We being willing that the error, if any there be, should in
due manner be corrected, and full and speedy justice done
to the parties aforesaid in this behalf, do command you, that
if judgment be thereupon given, then you send to us, (or in
C. P. "to our justices at *Westminster*,") distinctly and openly,
under your seal, or the seal of one of you, the record and
proceedings of the plaint aforesaid, with all things touching
the same, and this writ, so that we may have them on —,
wheresoever we shall then be in *England*, (or in C. P. "before
our said justices at *Westminster* aforesaid, on —,") that the
record and proceedings aforesaid being inspected, we may
cause to be further done thereupon, for correcting that error,
what of right, and according to the law and custom of *Eng-
land*, ought to be done. Witness ourself, (&c.)

George

CHAP. XLI. *George the Third, (&c)* To our chancellor of our county-palatine of *Lancaster*, or to his deputy there, greeting. Forasmuch as in the record and process, and also in giving of judgment, in a plaint which was in our court before our justices of *Lancaster*, by our writ, between *A B* and *C D*, of a plea of trespass upon the case, (or as the plea is,) as it is said, manifest error hath intervened, to the great damage of the said *C D* as by his complaint we are informed. We being willing, (&c) do command you, that by our writ, under the seal of the said county, you cause to be given in charge to our justices at *Lancaster*, that they send to you, under their seals, into the Chancery of the said county, the record and process aforesaid, with all things touching the same, which are in their custody, as it is said, on — next ensuing, and our writ which came to them thereupon. And do you send to us, distinctly and openly, under the seal of the said county, the record and this writ, so that we may have them on —, where ever we shall then be in *England*, that the record and process aforesaid being inspected, we may cause further to be done thereupon, &c (is in the last)

(§ 8) — to wit. Writ of error for *C D* at the suit of *A B* (or “for *A. B.* against *C D*”) on a judgment in case, (or as the judgment is,) in the Common Pleas, returnable on —, wheresoever, (&c)

G II attorney.

— 18—.

(§ 9) *George the Third, (&c)* To our right trusty and well beloved Sir *Henry Gribb* knight, our chief justice of the Bench, greeting. Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before you and your companions, our justices of the Bench, by our writ, between *A B* and *C D* late of —, of a plea of trespass on the case, (or as the plea is,) manifest error hath intervened, to the great damage of the said *C D* as by his complaint we are informed. We being willing, (&c) do command you, that if judgment be thereupon given, then you send to us distinctly and openly, under your seal, the record and proceedings of the plaint aforesaid, with all things concerning the same, and this writ, so that we may have them

on

on —, wheresover we shall then be in *England*, that the re- **CHAP XLI.**
cord and proceedings aforesaid being inspected, &c. (as in
p. 581. § 6)

George the Third, (&c) To our right trusty and well-be- (§ 10)
loved Sir *Vicary Gibbs* knight, our chief-justice of ~~the~~ Bench, The King, in
debt q. r. l. a. r.
greeting: Because in the record and proceedings, and also in
the giving of judgment, in a plaint which was in our court
before you and your companions, our justices of the Bench,
by our writ, between *A B.* who prosecutes as well for us as
for himself, and *C D.* late of —, of a plea that the said
C D. should render to us and the said *A B.* —. as it is
said, manifest error hath intervened, &c. (as in the last)

— to wit. Writ of error for *C. D.* at the suit of *A B.* (§ 11)
(or, “for *A. B.* against *C. D.*”) on a judgment in *case*, (or Præcipe for writ
of error, from
the King’s
Bench to the
Exchequer-
chamber
as the judgment is,) in the King’s Bench by bill, return-
able, (&c)

G. H. attorney.

— 18 —.

George the Third, (&c) To our right trusty and well be- (§ 12)
loved *Idrard Lord Ilanborough*, our chief justice assigned Writ of error,
from the King’s
Bench to the
Exchequer-
chamber.
to hold pleas in our court before us, greeting Whereas by
a statute made in the parliament of the Lady *Lizabeth*, late
Queen of *England*, held at *Westminster*, the 23d day of *No-*
vember, in the twenty-seventh year of her reign, it was, among
other things, enacted, by the authority of the same parliam-
ent, that “where any judgment should at any time thereafter
be given in the court of King’s Bench, in any suit or action
of debt, detinue, covenant, account, action upon the case,
ex tunc summe, or trespass, first commenced or to be first
commenced there, other than such only where we should be
party, the party plaintiff or defendant, against whom any
such judgment should be given, might at his election sue
forth out of the court of Chancery, a special writ of error,
to be devised in the said court of Chancery, directed to the
chief-justice of the said court of King’s Bench for the time
being, commanding him to cause the said record, and all
things concerning the said judgment, to be brought before
the justices of the Common Bench and the barons of the
Exchequer,

CHAP. XLI. Exchequer, into the Exchequer-chamber, there to be examined by the said justices of the Common Bench and barons aforesaid; which said justices of the Common Bench, and such barons of the Exchequer as are of the counsil, or six of them at the least, by virtue of the same act, should thereupon have full power and authority to examine all such error, as should be assigned or found in or upon any such judgment, and thereupon to reverse or affirm the said judgment, as the law should require, other than for errors to be assigned or found in or concerning the jurisdiction of the said court of King's Bench, or for any want of form in any writ, return, plaint, bill, declaration, or other pleading, process, verdict, or proceeding whatsoever, and that after the said judgment should be affirmed or reversed, the said record, and all things concerning the same, should be removed and brought back into the said court of King's Bench, that such further proceedings might be thereupon, as well for execution as otherwise, should appertain," as in the said statute is more fully contained. And because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before us, by bill, between *A B* and *C D* of a plea of trespass on the case, (or as the plea is,) as it is said, manifest error hath intervened, to the great damage of the said *C D* as by his complaint we are informed, which said error in no wise concerns us, or the jurisdiction of our said court of King's Bench, or any want of form in any writ, return, plaint, bill, declaration, or other pleading, process, verdict or proceeding whatsoever, as we are also informed. We therefore being willing that the error, if any there be, should, according to the form of the statute aforesaid, be duly corrected, and full and special justice done to the parties aforesaid in this behalf, do command you, that if judgment be thereupon given, then you cause the record and proceedings aforesaid, with all things concerning the same, to be brought before the said justices of the Common Bench and the barons of our said Exchequer, into our Exchequer-chamber aforesaid, on — the — day of — next ensuing, that the said justices and barons, the record and proceedings aforesaid being seen and examined, may further cause to be done thereupon, what of right, and according to the form of the statute aforesaid, ought to be done. Witness ourself, (&c.)

George

George the Third, (&c.) To our treasurer, and barons of our Exchequer, greeting. For as much as in the record and process, as also in giving judgment, in a plaint, which was before you the said barons, in our court of the said Exchequer, by bill, between *A B* our debtor, and *C D* of a plea of trespass on the case, (or is the plea is,) as it is said manifest error hath intervened, to the great damage of the said *C D* as by his complaint we are informed. And whereas by a statute made in the parliament of the lord *Edward* the third, late king of *England*, holden at *Westminster*, in the thirty first year of his reign, it was accorded and established, (amongst other things,) that "in all cases touching the king, or other persons, where any man complained of error made in process in the Exchequer, the chancellor and treasurer should cause to come before them, in any chamber of council nigh the Exchequer, the record of the process out of the Exchequer, taking to them the justices and other sage persons, such as to them should seem meet to be taken, and should also cause to be called before them the barons of the Exchequer, to hear their informations and the causes of their judgments, and thereupon should duly examine the business, and if any error were found, they should correct and amend the rolls, and afterwards send them into the said Exchequer, to make thereof execution as pertained;" as in the said statute is more fully contained. We therefore, willing, that the said error, if any, be amended, according to the form of the said statute, and that full and speedy justice be done to the said parties in this behalf, do command you, if judgment be given thereupon, then you cause the record and process aforesaid, with all things touching the same, to come before our chancellor, and you the said treasurer, into the chamber of council nigh the said Exchequer, called the Council chamber, on — the — day of — next coming, that the said chancellor, and you the said treasurer, viewing and examining the record and process aforesaid, and hearing your information, you the said barons may, by the advice of the justices and other sage persons aforesaid, cause further to be done in this behalf, as of right, and according to the form of the said statute, shall be meet to be done. Witness ourself, (&c.)

George

CHAP XLI. *George the Third, (&c)* To our right trusty and well-beloved *Eduard Lord Ellenborough*, our chief-justice assigned to hold pleas in our court before us, greeting. Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before us, by our writ, between *A. B* and *C. D* late of —, of a plea of trespass on the case, (or as the pleas, as it is said, manifest error hath intervened, to the great damage of the said *C. D* as by his complaint we are informed. We being willing that the error, if any there be, should in due manner be corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, that in judgment be thereupon given, then without delay you distinctly and openly send, under your seal, the record and proceedings aforesaid, with all things touching the same, to us in our present parliament, and this writ, that the record and proceedings aforesaid being inspected, we may further cause to be done thereupon, with the assent of the lords spiritual and temporal in the same parliament, for correction that error, what of it, and according to the law and custom of *England*, as it to be done. Witness ourself, (&c)

(J 1)
The clerk of the
affairs of the
treasury
Be it
George the Third, (&c) To our right trusty and well-beloved *Eduard Lord Ellenborough*, our chief justice assigned to hold pleas in our court before us, greeting. Because in the record and proceedings, and also in the giving of judgment, in a plaint which was before Sir *Henry Gylbs* knight and his companions, our justices of the bench, by our writ, between *A. B* and *C. D* late of — of a plea of trespass on the case (or as the pleas), and also in the affirmance of the same judgment in our court before us, as it is said, manifest error hath intervened, to the great damage, (&c) We being willing, (&c) do command you, that in judgment be thereupon given and affirmed, then you distinctly and openly send, under your seal, the record and proceedings aforesaid, with all things touching the same, to us in our parliament, at the next session thereof to be holden on the — day of — next ensuing, and this writ, that the record and proceedings aforesaid being inspected, we may further cause to be done thereupon, &c. (as in the last)

George

George the Third, (&c.) To our right trusty and well-beloved *Edward Lord Ellenborough*, our chief-justice assigned to hold pleas in our court before us, greeting: Whereas in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before us, by bill, between *A. B.* and *C. D.* of a plea of trespass on the case (or as the pleas), which said record and proceedings, by reason of error happening therein, we caused to be brought before the justices of the Common Bench and the barons of our Exchequer, into our Exchequer-chamber, and the judgment thereupon is affirmed, as it is said, manifest error hath intervened, to the great damage, (&c.) We being willing, (&c.) do command you, that if judgment be thereupon given and affirmed, &c. (as before)

CHAP. XLL

(§ 16)

The like, after
affirmance in
the Exchequer-
chamber.

George the Third, (&c.) To the lord high treasurer of *Great Britain*, and to the chief-baron of our court of Exchequer in *Scotland*, and the rest of the barons of the same court, greeting. Because in the record and proceedings, and also in the giving of judgment, in a plaint which was before you, in our court of Exchequer in *Scotland*, by bill, between *A. B.* earl of — and *C. D.* of — of a plea of trespass, touching and concerning our revenue, as it is said, manifest error hath intervened, to the great damage of the said *A. B.* as by his complaint we are informed. And whereas by a statute made in the parliament of the lady *Anne*, late Queen of *Great Britain*, &c. at a session thereof holden at *Westminster* in the county of *Middlesex*, in the sixth year of her reign, intituled “An act for setting and establishing a court of Exchequer in the North part of *Great Britain* called *Scotland*,” it was (amongst other things,) provided and enacted, that “it should as might be lawful to and for any person or persons, bodies politic or corporate, party or parties to any judgment which should be given in the said court of Exchequer in *Scotland*, his her or their heirs executors or administrators, or such other person or persons, bodies politic or corporate, who should be privy to and affected by such judgment, and who by law was or were entitled to bring and maintain a writ or writs of error thereupon, to sue and prosecute out of the court of Chancery in *England*, a writ or writs of error, to be made in usual manner upon any such judgment, returnable in the parliament

(§ 17)

The like, from
the Exchequer
in *Scotland*.

CHAP. XLI. *Lament of Great Britain*, and such and the like securities, matters and things, way and method of proceedings, should and might be had therein and there upon, and relating thereunto, as had been, were or might be used and practised, upon or concerning writs of error returnable in parliament, upon any judgment in any the courts in *England*, and upon or relating to the affirming or reversal of such judgments, and the proceedings to receive, in like case," is in the said statute is more fully continued. We therefore, being willing that the said error, if any there be, should in due manner be corrected, according to the form of the said statute, and full and speedy justice done to the parties aforesaid in this behalf, do command you, that if judgment be thereupon given, then without delay you distinctly and openly send, under your seal, the record and proceedings aforesaid, with all things touching the same, to us in our present parliament, and his writ, that the record and proceedings aforesaid being inspected, we may further cause to be done thereupon, with the assent of the lords spiritual and temporal in the same parliament, for correcting that error, what of right, and according to the law and custom of *England*, ought to be done. Witness ourself, (&c.)

(§ 19)
Allowance of writ of error

Between $\begin{matrix} A & B \\ C & D \end{matrix}$ and } Case, (or, Debt, &c.)

I have allowed a writ of error in this cause, this — day of — 15—

—,
Clerk of the courts

(§ 19)
Part of law-
rence in a writ
of error coram
nobis

It is ordered, that the writ of error issued between the parties in this cause, be allowed, and upon the plaintiff in error putting in and justifying his bail within four days next ensuing, that further proceedings be stayed on the judgment in the original action, until the said writ of error now depending between the parties, be determined.

By the Court.

(§ 20)
Part of law-
rence in a writ
of error coram
nobis

You severally acknowledge to owe *A. B.* the sum of —*l* (double the sum recovered,) upon condition that *C. D.* prosecute

secutes his writ of error with effect; and if judgment be affirmed, shall satisfy and pay the damages and costs (i. e. "debt damages and costs") recovered, together with such costs and damages as shall be awarded by occasion of the delay of execution; or else you will do it for him.



In the King's Bench,
(or Common Pleas)

(§ 1)
Notice of bail
in error, in
K B or C P

A. B. against *C. D.**

Take notice, that special bail was this day put in, upon the writ of error brought in this cause, with the clerk of the errors, before the honourable Mr. Justice —, at his chambers in *Serjeant's Inn, Chancery Lane, London*, and their names are *E. F.* of — and *G. H.* of —. Dated, (&c)

Yours, &c.

I. K. plaintiff's attorney.

To *L. M.* defendant's attorney.

A. B. } Unless the plaintiff in the writ of error puts in
1. } better bail within four days next after notice hereof
C. D. } given to the said plaintiff or his attorney, execution will issue.

(§ 2)
Rule for better
bail, in K B
or C P

—,
Clerk of the errors.

In the King's Bench,
(or Common Pleas)

(§ 2)
Notice of bail
in error, in
K B or C P

A. B. against *C. D.*

Take notice, that the bail already put in upon the writ of error brought in this cause, and of whom you have had notice, will on — the — day of — next, justify them-

* After a writ of error is brought and allowed, the names of the plaintiff and defendant in the original action are continued in the notices of bail and exception, the rule for better bail, and the rule to certify, until the transcript of

the record is carried over and filed in the King's Bench, or Exchequer Chamber, and then the names of the parties are reversed, and they are called *C. D.* against *A. B.* in error.



selves

CHAP. XLI. selves in this honourable court, as good and sufficient bail for the said defendant. † Dated the — day of — 18—.

Yours, &c.

A. K. plaintiff's attorney.

To *L. M.* defendant's attorney.

(§ 21)
Entry of recognizance of bail, on error from the Common Pleas to the King's Bench.

— term, (&c.)

Be it remembered, that on the — day of — in this same term, the honourable Sir *Vicary Gibbs* knight, chief-justice of our lord the king of the Bench at *Westminster*, hath delivered here into court, with his own proper hands, a certain recognizance, together with a certain condition of the said recognizance, taken before the honourable Mr. Justice —, to be inrolled of record, and it is inrolled in these words :

E. F. of (&c.) and *G. H.* of (&c.) on the — day of — 18—, came in their own proper persons, before the honourable Mr. Justice — one of the justices of our lord the king of the Bench at *Westminster*, at his chambers in *Serjeant's Inn, Chancery Lane, London*, and acknowledged themselves, and each of them by himself severally did acknowledge himself, to owe to *A. B.* the sum of —*l.* to be levied of their lands and chattels, and of the lands and chattels of each of them, to the use of the said *A. B.*

The condition of this present recognizance is such, that whereas the said *A. B.* lately in his majesty's court of Common Bench at *Westminster*, before Sir *Vicary Gibbs* knight and his brethren, justices of the said court, by the consideration and judgment of the said court, recovered against *C. D.* —*l.* for his damages which he had sustained, on occasion of the not performing, (&c.) ; whereof the said *C. D.* hath been convicted : And whereas the said *C. D.* hath sued out of his majesty's court of *Chancery* at *Westminster*, on the aforesaid judgment, his majesty's writ of error, tested the — day of — in the — year of his reign, directed to — one of the justices of his majesty's court of the Bench aforesaid : Now therefore, if the said *C. D.* doth by himself, or his sufficient surety, prosecute the said writ of error with effect, and also doth satisfy and pay unto the said *A. B.* if the said judgment be affirmed, or the said writ of error be discontinued

tinued in his default, or he shall be nonsuited therein, the damages aforesaid, already adjudged upon the said judgment, and all costs and damages to be also awarded for the delay of execution of the said judgment, by means of the said writ of error, then this recognizance to be void and of no effect, or else to be and remain in full force and virtue.

Pleas before our lord the king at *Westminster*, of — term, (the term bail was put in,) in the — year of the reign of our sovereign lord *George* the third, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—.

(§ 25.)
The like, on
error from the
King's Bench
to the Exche-
quer chamber.

Roll —.

England, to wit. Be it remembered, that on — next after — in this same term, before our lord the king at *Westminster*, — one of the justices of our said lord the king, assigned to hold pleas in the court of our said lord the king before the king himself, hath here recorded, that on the — day of — in the year of our Lord 18—, before the same justice, at his chambers situate in *Serjeant's Inn, Chancery Lane, London*, came *E. F.* of — and *G. H.* of — in their own proper persons, and according to the form of the statute in such case made and provided, acknowledged themselves, and each of them separately did acknowledge himself, to owe to *A. B.* the sum of —*l.* of lawful money of *Great Britain*, to be paid to the said *A. B.* his executors or assigns; and unless they should so do, the said *E. F.* and *G. H.* did grant and agree that the said —*l.* of their and each of their lands and chattels should be made, and levied to the use of the said *A. B.*

The condition of the above recognizance is such, that whereas the aforesaid *A. B.* lately in the court of our said lord the king before the king himself at *Westminster*, by bill without the writ of our said lord the king, and by the judgment of the same court, recovered against *C. D.* —*l.* for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended; whercof

CHAP. XLI. whereof the said *C. D.* hath been convicted, as appears of record in the said court of the said lord the king before the king himself at *Westminster*. And whereas the said *C. D.* hath brought a writ of error upon the judgment aforesaid, returnable before the justices of our said lord the king of the Common Bench, and barons of his Exchequer of the degree of the coif, in the Exchequer-chamber, on — the — day of — in the said — year of the reign of our said lord the king: If therefore the said *C. D.* shall prosecute the said writ of error with effect, and also shall satisfy and pay to the said *A. B.* if the said judgment shall be affirmed, or the said writ of error be discontinued in his default, or he shall be nonsuit therein, as well the damages costs and charges aforesaid, adjudged upon the said judgment, as also all such costs charges and damages as shall be awarded to the said *A. B.* for delay of execution of the said judgment, by the prosecution of the said writ of error; then this recognizance to be void, or otherwise to be and remain in full force and virtue

(§ 1)
The like, in
error from the
Exchequer of
Plea.

Be it remembered, that *E. F.* of, (&c.) and *G. H.* of, (&c.) on the — day of — in the — year of the reign of our sovereign lord George the third, by the grace of God of the united kingdom of Great Britain and Ireland king, defender of the faith, came before the right honourable Sir Alexander Thomson knight, lord chief baron of his majesty's court of Exchequer at Westminster, at his house in Bedford Square, in the county of Middlesex, and acknowledged themselves, and each of them did acknowledge himself, to owe unto *A. B.* debtor of our said lord the king, the sum of — £ of lawful money of Great Britain, to be paid to the said *A. B.* or his certain attorney, executor administrators and assigns, and if the said *E. F.* and *G. H.* do not pay the same, then they and each of them will and consent, that the said sum of money shall be levied and recovered of the lands and tenements, goods and chattels, of them the said *E. F.* and *G. H.* and each of them, to and for the use of the said *A. B.* his executors administrators and assigns.

The condition of this recognizance is such, that whereas *C. D.* has brought a writ of error upon a judgment recovered against him, in his said majesty's court of Exchequer at Westminster,

minster, as of — term last past, in an action upon the case, CHAP. XLI.
 at the suit of the said *A. B.* for the sum of *—l.* damages, as
 by the record thereof there remaining, it doth and may more
 fully appear; which said writ of error is returnable in the
 chamber of council nigh the said Exchequer, called the
 Council-chamber, on — the — day of — next ensu-
 ing: If therefore the said *C. D.* do prosecute the said writ of
 error with effect, and also pay and satisfy, if the said judg-
 ment be affirmed, or the said *C. D.* become nonsuit in the said
 writ of error, or suffer the same through his default to be
 discontinued, to the said *A. B.* his executors administrators or
 assigns, all and singular the damages aforesaid, recovered by
 the said judgment, and also all such further costs and da-
 mages, as shall be awarded for delay of execution, by reason
 of the said writ of error, then this recognizance to be void,
 otherwise to remain in full force and virtue.

Taken and acknowledged the day, year
 and place first above-mentioned, condi-
 tionally, before me, } *E. F.*
G. H.

Alexander Thomson.

Be it remembered, &c. (as in the last).

The condition of this recognizance is such, that whereas
 the above-named *A. B.* did in the term of — last past, re-
 cover a judgment in his majesty's court of Exchequer, against
C. D. in an action upon the case, for — *l.* damages, as by
 the record thereof there remaining, it doth and may more fully
 appear: And whereas the said *C. D.* brought a writ of error
 upon the said judgment, returnable in the Exchequer-cham-
 ber; but for want of prosecution thereof, became nonsuit; as
 by the record thereof, also more fully appears: And whereas
 the said *C. D.* hath now brought a writ of error, returnable
 in the high court of parliament, for reversing the said judg-
 ment: If therefore the said *C. D.* do prosecute the said last-
 mentioned writ of error with effect, or, if the said judgment be
 affirmed by the lords in parliament, do satisfy the said *A. B.*
 his executors administrators and assigns, as well the said — *l.*
 as — *l.* costs and damages, allowed to the said *A. B.* for
 delay of execution, by reason of the said writ of error, re-
 turnable in the Exchequer-chamber aforesaid, and also all

(y 27
 The Hec, ou
 error in publi-
 ment.

Signe
S.

CHAP. XLI. such costs and damages, sum and sums of money, as shall be awarded for delay of execution, by reason of the writ of error now brought in parliament, then this recognizance to be void, or else to remain in full force.

Taken and acknowledged, (&c.)

E. F.

G. H.

(§ 25.)
Docket-party,
in K. B.

The entry (or further entry) of *I. K.* gentleman, one, &c.
of — term, — *George* the third.

England. Entry of recognizance of bail in error, in a cause wherein *A. B.* is plaintiff, and *C. D.* defendant.

Roll —.

(§ 29.)
Rule to certify
the record,
on error from
the Common
Pleas.

In the Common Pleas.

A. B. } Unless the plaintiff in the writ of error brought in
v. } this cause, certifies the record into the court of King's
C. D. } Bench, within eight days next after notice hereof to
be given to him or his attorney, a nonsuit will be entered.

—,
Clerk of the errors.

(§ 30.)
The like, on
error from the
King's Bench.

In the King's Bench

A. B. } Unless the plaintiff in the writ of error certifies the
v. } record, within eight days next after notice hereof
C. D. } given to the said plaintiff or his attorney, a nonsuit
will be entered.

—,
Clerk of the errors.

(§ 31.)
Chief justice's
return, on er-
ror from the
Common-
Pleas.

The answer of Sir *Vicary Gibbs* knight, the chief-justice
within-named.

The record and proceedings of the plaint, whereof mention
is within made, follow in these words, to wit:

Pleas at *Westminster*, before Sir *Vicary Gibbs* knight and
his companions, justices of our lord the king of the Bench, of
the term of —, in the — year of the reign of our sovereign
lord

lord *George the third*, by the grace of God of the unite d king- dom of *Great Britain and Ireland* king, defender of the faith. CHAP. XLI.

Roll —.

— (to wit) *C D.* late of —, was attached (or summoned) to answer *A B.* &c. (here copy the proceedings, as on the judgment-roll).

The answer of *Edmond Lord Ellenborough*, the chief-justice within-named.

(§ 22)
Th like, in
creation the
king's Bench
titled by h
qu i chamber.

The record and proceedings of the plaint, whereof mention is within made, with all things concerning the same, I certify to the justices and jurors within specified, at the day and place within contained, in a certain schedule to this writ annexed, as within I am commanded.

Ellenborough.

Pleas before our lord the king at *Westminster*, of the term of —, in the — year of the reign of our sovereign lord *George the third*, by the grace of God of the united kingdom of *Great Britain and Ireland* king, defender of the faith.

Roll —.

— (to wit) *A. B.* puts in his place *E. F.* his attorney, against *C D.* in a plea of trespass on the case (or as the pleas).

— (to wit.) *C D.* puts in his place *G. H.* his attorney, (or, "*C D.* in person,") at the suit of the said *A. B.* in the plea aforesaid.

— (to wit) Be it remembered, &c. (here copy the proceedings, as on the judgment-roll).

Afterwards, to wit, on — next after — in this same term, before our lord the king at *Westminster*, comes the said *E. F.* in his proper person; and the said *A. B.* in his proper person also comes, and freely here in court says that the said writ of error, by the said *E. F.* in form aforesaid prosecuted, did wrongfully and improvidently issue, for this, to wit, that

(§ 33)
Entry of is-
sue in these on
a writ of error
brought to the
court by the judi-
ce against the
principal whom
in default he
entered in his
by gain t the bail.

CHAP. XLI. by the writ aforesaid it appears, that the said writ of error was prosecuted by the said *E. F.* as bail for the said *C. D.* in the plaint aforesaid, as well upon the giving of judgment in the plaint aforesaid, between the said *A. B.* and the said *C. D.* as upon the adjudication of execution on the writ of *scire facias*, issuing out of the king's court of record of —, against the said *E. F.* as bail for the said *C. D.* in the same plaint; whereas by the law of the land of *England*, no such writ of error, in the name and at the suit of the said *E. F.* ought to have issued, and for that reason, the said *A. B.* prays that the writ of error, by the said *E. F.* in form aforesaid prosecuted, may be quashed, voided and held for nothing. Whereupon all and singular the premises being seen, and by the court of our said Lord the king now here fully understood, and mature deliberation being thereupon had, it is considered, that the said writ of error, by the said *E. F.* in form aforesaid prosecuted, be quashed, avoided and altogether held for nothing.

For writs of *scire facias quare executionem non*, penning error, *vide ante*, p 511.

(§ 34)
Rule for judgment on writ of error, in the King's Bench.

In the King's Bench.

C. D. plaintiff,
and
A. B. defendant, } in error.

Rule for judgment on *scire facias quare executionem non*.

E. F. attorney,

— 18—.

(§ 35)
Rule to allege diminution, in the Exchequer chamber

In the Exchequer chamber.

C. D. } Unless the plaintiff in the writ of error alleges
v. } diminution, within eight day next after notice herof
A. B. } given to the said plaintiff or his attorney, a nonsuit
will be entered

—,
Clerk of the errors.

(§ 36)
Rule to assign error in the King's Bench.

— to assign errors on record.

C. D. and *A. B.*

Entered.

In

In the Exchequer-chamber

CHAP. XLI.

C. D. } Unless the plaintiff in the writ of error assigns error
v. } or errors, within eight days next after notice hereof
A. B. } given to the said plaintiff or his attorney, a nonsuit
 will be entered

(§ 37)
 The Clerk in
 the Exchequer-
 chamber.

—, Clerk of the errors

— 18— (§ 38)
 Upon reading the petition of *A. B.* shewing that he obtained a judgment against *C. D.* in — term last, and that the said *C. D.* for delay had brought his writ of error into this house, the — of — list, but hath not assigned errors thereon, and praying that the said writ of error may be remitted, to the end he may have execution thereupon. It is ordered by the lords spiritual and temporal in parliament assembled, that the said *C. D.* be, and he is hereby required to assign error thereupon, on or before — next, at — of the clock in the forenoon, or otherwise the said transcript of the said judgment, made on the behalf of the said *A. B.* shall be and is hereby remitted, to the end he may have execution thereupon, as if no such writ of error had been brought into this house.

Ord. in the
 House of Lords.

— *Clerk Parl.*

— term, in the — year of the reign of king George the Third.

(§ 39)
 Assignment of
 error by the
 defendant

C. D. } Attwuds, to wit, on — next after — in
v. } this same term, before our lord the king at
A. B. } Westminster, commands the said *C. D.* by *G. H.* his
 attorney, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error in this, to wit, that he the said *C. D.* appeared in the suit aforesaid, by — his attorney, nevertheless the said *C. D.* at the time of his said appearance, and also at the time of giving the judgment aforesaid, was under the age of twenty one years, to wit, of the age of — years and no more, to wit, at —; in which case the said *C. D.* ought to have been admitted to appeal in the court aforesaid,

to

CHAP. XLI. to defend the suit aforesaid by his guardian, and not by his attorney; therefore in that there is manifest error: And this he the said *C. D.* is ready to verify, wherefore he prays that the judgment aforesaid, for the error aforesaid, may be revoked, annulled and altogether held for nothing, and that he may be restored to all things which he hath lost by occasion of the judgment aforesaid, &c.

(§ 40.)
Plea, of full
age.

A. B. } And hereupon the said *A. B.* by *E. F.* his at-
ats. } torney, freely here in court comes and says, that
C. D. } by reason of any thing above for error assigned,
in error. } the judgment aforesaid ought not to be revoked,
annulled, or held for nothing; because he says that the said *C. D.*
at the time of his said appearance, to wit, in the term of —,
and also at the time of giving the judgment aforesaid, was of
the full age of twenty one years, to wit, at — aforesaid; and
of this he the said *A. B.* puts himself upon the country, &c.

(§ 41.)
Assignment of
coverture in
the defendant,
at the time of
bringing the
action.

C. D. } Afterwards, to wit, on — next after — in
and wife } this same term, before our lord the king at
v. } *Westminster*, come *C. D.* and *E.* his wife, which
A. B. } said *E.* was and is impleaded in this suit by the
in error. } name of *E. F.* in their proper persons, and say
that in the record and proceedings aforesaid, and also in
giving the judgment aforesaid, there is manifest error in this,
to wit, that before the day of exhibiting the bill (or, “suing
out the original writ”) of the said *A. B.* against the said *E.*
by the name of *E. F.* and before the giving of the judgment
aforesaid, to wit, on — at — aforesaid, the said *E.* in-
termarried with and took to husband the said *C. D.* and that
she the said *E.* at the time of exhibiting the bill (or, “suing
out the original writ”) aforesaid, and also at the time of
giving the judgment aforesaid, was and yet is covert of the
said *C. D.* then and yet her husband, to wit, at — afore-
said; therefore in that there is manifest error: And this they
the said *C. D.* and *E.* his wife are ready to verify, wherefore
they pray that the judgment aforesaid, for the error aforesaid,
may be revoked, annulled and altogether held for nothing,
and that they may be restored to all things which they have
lost by occasion of the judgment aforesaid, &c.

A. B.

A. B. } And hereupon the said *A. B.* by *E. F.* his at- CHAP. XLII.
ats. } (§ 42)
C. D. } Plea in toto.
 and wife, }
 in error. }
 that the said *E.* at the time of exhibiting the bill (or, "suing
 out the original writ") aforesaid, was not nor is covert of the
 said *C. D.* in manner and form as the said *C. D.* and *E.* have
 above alleged; and of this he the said *A. B.* puts himself
 upon the country, &c.

C. D. } Afterwards, to wit, on — next after — in
A. B. } this same term, before our lord the king at
in error. } *Westminster*, comes the said *C. D.* by *G. H.* his
attorney, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error in this, to wit, that by the record aforesaid it appears, that the judgment aforesaid, in form aforesaid given, was given for the said *A. B.* against the said *C. D.* in the plea aforesaid; when in truth and in fact, the said *A. B.* in the plea aforesaid named, before the trial of the issue joined in the record aforesaid, and before the giving of the judgment aforesaid, to wit, on — at — died; therefore in that there is manifest error: And thus he the said *C. D.* is ready to verify, wherefore he prays that the judgment aforesaid, for the error aforesaid, may be revoked, annulled and altogether held for nothing, and that he may be restored to all things which he hath lost by occasion of the said judgment, &c. And the said *C. D.* also prays the writ of our lord the king, to give notice to — and — executor of the last will and testament of the said *A. B.* that they be before our said lord the king at *Westminster*, on —, to hear the record and proceedings aforesaid, and the matter above assigned for error; and it is granted to him, &c.

(§ 43)
Assignment of the death of the plaintiff before trial, and award of *scire facias*, to his executors

C. D. } Afterwards, to wit, on — next after — in (§ 41)
v. } this same term, before our lord the king at The like, of
A. B. } *Westminster*, comes the said *C. D.* by *G. H.* his the death of
in error. } attorney, and says that in the record and proceed- one of the de-
ings aforesaid, and also in giving the judgment aforesaid, fendants in the
there is manifest error in this, to wit, that by the record action.
aforesaid

CHAP. XLII. aforesaid it appears, that the judgment aforesaid, in form aforesaid given, was given for the said *A B* well against the said *E F* as against the said *C D* when a truth and in fact the said *L I* in the plea aforesaid named, before the trial of the issue joined in the record aforesaid, between the parties aforesaid, and before the giving of the judgment aforesaid, to wit, on — at — died, thereof it is manifest error. And thus he the said *C D* is ready to verify, wherefore he prays that the judgment aforesaid, for the error aforesaid, may be revoked, annulled and altogether held for nothing, and that he may be restored to all things which he hath lost by occasion of the judgment aforesaid, &c.

(§ 4.)
Plea in reply

A. B. } And the said *A B* by *I I* his attorney, comes
 } and says, that by reason of certain things above
C D. } for error assigned, the judgment aforesaid ought
 } not to be revoked, annulled, or held for nothing,
in error } because he says that the said *I I* in the plea aforesaid
 } named, is yet living and in full life, to wit, at —, with-
 } out this that he the said *I I* before the trial of the issue
 } aforesaid, joined in the record between the parties aforesaid,
 } died, in manner and form as the said *C D* hath above al-
 } leged. And thus he the said *A B* is ready to verify, where-
 } fore he prays that the judgment aforesaid may be in all things
 } affirmed, &c.

(§ 4.)
Reply in affirm.

C D. } And the said *C D* as before says, that the said
 } *I I* before the trial of the issue aforesaid,
A B. } joined in the said record between the parties
 } aforesaid, died, in manner and form as he the
in error } said *C D* hath above alleged, and thus he the said *C D*.
 } prays may be inquired of by the country, &c.

(§ 4.)
Assignment of
error, &c.
writ of out-
lawry in the
King's Bench,
for insufficiency
of the writ
factus, &c.

Afterwards, to wit, on — next after — in this same term, before the lord the king at *Westminster*, comes the said *C D* by *G. H.* his attorney, and immediately says, that in the pronouncing of the outlawry aforesaid, there is manifest error in this, to wit, that the said writ of *exigi facias*

is insufficient, invalid, and void in law; therefore in that CHAP. XLII.
 there is manifest error: There is also error in this, to wit,
 &c. (assigning the errors): And the said *C. D.* plays the writ
 of the lord the king, to warn the said *A. B.* to be before
 the said lord the king, to hear the record and proceedings
 aforesaid; and it is granted to him, &c.

Afterwards, to wit, on ——— in this same term, before the (948)
 justices here, come *E. F.* and *G. H.* executors of the last The last will and testament of C. D. deceased, in their own proper persons, and say that in the record and proceedings aforesaid, and in the pronouncing of the said outlawry, there is error in this, to wit, that the said C. D. before and at the time of awarding and issuing the writ of *exigentia*, upon which the said outlawry was pronounced, and from thence continually afterwards, until and at the time of pronouncing the said outlawry, was in part beyond the seas, to wit, at (sic)
 And thus they the said *E. F.* and *G. H.*, at ready to
 verify, wherefore they pray judgment, and that the out-
 lawry aforesaid, in form aforesaid pronounced against the
 said *C. D.* may be reversed, annulled and altogether held
 for nothing, and that they the said *E. F.* and *G. H.* as ex-
 ecutors as aforesaid, may be restored to in things which the
 said *C. D.* in his life-time lost on occasion of the said out-
 lawry, &c.

And hereupon the said *A. B.* by ——— his attorney, freely (949)
 here in court comes and says, that by reason of any thing Plethora.
 above for error assigned, the outlawry aforesaid, in form
 aforesaid pronounced against the said *C. D.* ought not to be
 reversed, annulled or held for nothing: Because he says,
 that the said *C. D.* at the time of awarding and issuing the
 said writ of *exigentia*, upon which the said outlawry was
 pronounced, or from thence continually afterwards, until and
 at the time of pronouncing the said outlawry, was not in
 parts beyond the seas, in manner and form as the said
E. F. and *G. H.* have above alledged; and of this he the said
A. B. puts himself upon the country, &c.

—— term,

CHAP. XLI.

(§ 50)
Assignment of
general errors
in the King's
Bench

— term, in the — year of the reign of king *George*
the Third
2 *C. D.* } Afterwards, to wit, on — in this same term, be-
fore our lord the king at *Westminster*, comes the
A. B. } said *C. D.* by *G. H.* his attorney, and says that
in error } in the record and proceedings aforesaid, and
also in giving the judgment aforesaid, there is manifest error
in this, to wit, that the declaration aforesaid, and the matters
therein contained, are not sufficient in law for the said *A. B.*
to have or maintain his aforesaid action thereof against the
said *C. D.*. There is also error in this, to wit, that by the
record aforesaid it appears, that the judgment aforesaid, in
form aforesaid given, was given for the said *A. B.* against the
said *C. D.*, whereas by the law of the land, the said judgment
ought to have been given for the said *C. D.* against the said
A. B. And the said *C. D.* prays that the judgment aforesaid,
for the errors aforesaid, and other errors in the record and
proceedings aforesaid, may be reversed, annulled and alto-
gether held for nothing, and that he may be restored to all
things which he hath lost by occasion of the said judgment,
&c.

(§ 51)
Assignment of
the writ of an
original writ,
in K. B.

C. D. } Afterwards, to wit, on — in this same term,
v } before our lord the king at *Westminster*, comes
A. B. } the said *C. D.* by *G. H.* his attorney, and says
in error } that in the record and proceedings aforesaid,
and also in giving the judgment aforesaid, there is manifest
error in this, to wit, that the declaration aforesaid, and the
matters therein contained, are not sufficient in law for the
said *A. B.* to have or maintain his aforesaid action thereof
against the said *C. D.*. There is also error in this, to wit, that
by the record aforesaid it appears, that the said *C. D.* was
attached to answer to the said *A. B.* in the plea aforesaid,
yet no original writ between the parties aforesaid, in the
plea aforesaid, is filed or remaining of record in the said
court of our said lord the king of the bench at *Westminster*
aforesaid, therefore in that there is manifest error. There is
also error in this, to wit, that by the record aforesaid it ap-
pears, that the judgment aforesaid, in form aforesaid given,
was given for the said *A. B.* against the said *C. D.* whereas
by

by the law of the land, the said judgment ought to have been given for the said *C. D.* against the said *A. B.* And the said *C. D.* prays a writ of our said lord the king, to be directed to the *custos breviarum* of the said court of the bench at *Westminster*, to certify to our said lord the king the truth of the same; and it is granted to him, &c. And the said *C. D.* prays that the judgment aforesaid, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled and altogether held for nothing, and that he may be restored to all things which he hath lost by occasion of the said judgment, &c.

— to wit. *Certiorari* to certify an original writ, between *A. B.* plaintiff and *C. D.* late of — defendant, returnable without delay. (§ 52)
Præcipe for certiorari, to certify an original writ

G. II. attorney.

—18—.

George the Third, (&c.) To our right trusty and well-beloved — holding the office of keeper of the writs, rolls and records of our court of the bench, greeting: We being willing for certain causes to be certified, whether any original writ between *A. B.* and *C. D.* late of — in a plea of trespass on the case (or as the plea is), be filed in your custody, of — term in the — year of our reign, or not; do command you, that having searched our original writs directed to the sheriff of —, and which are filed of record in your custody, of the aforesaid — term in the — year of our reign, what you shall find therein of an original writ between the parties aforesaid, of the plea aforesaid, you certify to us without delay, wheresoever we shall be in *England*, together with the return and indorsement thereof, as fully and entirely as the same remain in your custody, and this writ. Witness *Edward Lord Ellenborough*, &c. (§ 53.)
Certiorari.

— to return the writ of *certiorari*. B. and D. (§ 54)
Rule to return certiorari.

Entered.

The

CHAP. XII. The answer of — holding the office of keeper of the writs,
 (§ 55) and records within-named.

It turnt out
 to, that there
 is an original
 writ

By virtue of this writ to us directed, we do hereby certify to our lord the king, that having searched the original writs due to the sheriff of —, which are filed of record in our custody, of — term in the — year of the reign of our said lord the king, we find that there is an original writ between the parties within named, in a plea of trespass on the case (or is the plea), directed to the sheriff of —, filed of record in our custody, of the term aforesaid, the tenor of which said original writ, together with the return and endorsement thereof, is fully and entirely as the same remain in our custody, we do hereby certify to our said lord the king, as appears by the schedule hereunto annexed, and as we are within commanded.

(It follows a copy of the original writ, with the sheriff's return, &c. endorsed thereon)

(§ 56) Afterward, the writ, on — in this same term, before our
 As the lord the king, *He tunc ten*, comes the said *C. D.* by *G. H.*
 the his attorney, and say that in the record and proceedings
 taken, and also in giving the judgment aforesaid, there is
 a great error in this, to wit, that the declaration aforesaid,
 and the matter therein contained, are not sufficient in law
 for the said *A. B.* to have warrant in his aforesaid action
 thereof against the said *C. D.* There is also error in this, to
 wit, that by the record aforesaid it appears, that the judg-
 ment aforesaid, in form aforesaid given, was given for the
 said *A. B.* against the said *C. D.* whereas by the law of the
 land, the said judgment ought to have been given for the said
C. D. against the said *A. B.* There is also error in this, to
 wit, that by the record aforesaid it appears, that the said
A. B. appeared by *E. F.* his attorney, against the said
C. D. in the plea aforesaid, nevertheless there is no warrant
 of attorney, filed or returning of record in the said court of
 our said lord the king of the bench at *Westminster*, between
 the parties aforesaid in the plea aforesaid, to warrant the said
E. F. to be attorney for the said *A. B.* against the said *C. D.*

in the plea aforesaid; therefore in that there is manifest error : CHAP. XLI.

And the said *C. D.* prays a writ of our said lord the king, to be directed to the chief-justice of the said court of the bench, to certify to our said lord the king, the truth of the same; and it is granted to him, &c. And the said *C. D.* prays that the judgment aforesaid, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled and altogether held for nothing, and that he may be restored to all things which he hath lost by occasion of the said judgment, &c.

— to wit. *Certiorari* to certify warrant of attorney, for *A. B.* plaintiff against *C. D.* late of — defendant, returnable without delay.

(§ 57.)
Præcipe for certiorari, to certify warrant of attorney.

G. H. attorney.

— — 18 —.

George the Third, (&c.) To our right trusty and well-beloved Sir *Vicary Gibbs* knight, our chief justice of the bench, greeting : We being willing for certain causes to be certified, whether *A. B.* made *E. F.* gentleman his attorney of record, against *C. D.* late of —, of a plea of trespass on the case (or as the plea is), before you and your companions, our justices of the bench aforesaid, of the term of — in the — year of our reign, or not; do command you, that having searched the rolls and other memorandums of warrants of attorney, for the county of — being in your custody of record, of the aforesaid term of — in the — year of our reign aforesaid, what you shall find therein concerning the said warrant of attorney, between the parties aforesaid, of the plea aforesaid, you certify to us without delay, wheresoever we shall be in *England*, as fully and entirely as the same remains in your custody, together with this writ. Witness *Edward* Lord *Ellenborough*, (&c.)

(§ 58.)
Certiorari

The answer of Sir *Vicary Gibbs* knight, the chief justice within-named.

(§ 59.)
Return thereto, that there is no warrant of attorney.

I certify to our lord the king, that having searched the rolls and other memorandums of warrants of attorney, for the county of —, of the term and year within written, being

CHAP. XLI. being in my custody; I have not found in the same, any warrant of attorney between the within-named *A. B.* and *C. D.* of the plea within-mentioned.

(§ 60)
Assignment of errors after a bill of exceptions, as to particular counts on a trial before the chief-justice, in *C. P.*

And hereupon the said *C. D.* says, that in the record and proceedings aforesaid, and also in the matters recited and contained in the said bill of exceptions, and also in giving the verdict upon the said issue between the parties aforesaid joined, as to the first five counts of the said declaration, and also in giving the judgment aforesaid, there is manifest error in this, to wit, that the chief-justice before whom, &c. at and upon the trial of the said issue between the parties aforesaid joined, did declare, and deliver his opinion to the jury aforesaid, that the evidence offered and produced on the part of the said *A. B.* was sufficient, and that the same was admissible, and ought to be allowed, to entitle the said *A. B.* to a verdict upon the first five counts of the said declaration, and with that direction, he left the said issue to the jury; whereas the same was not sufficient, nor ought the same to have been admitted and allowed, to entitle the said *A. B.* to a verdict upon any of the counts in the said declaration: There is also error in this, to wit, that by the record aforesaid it appears, that the verdict aforesaid was given upon the said issue between the said parties joined, as to the first five counts of the said declaration, for the said *A. B.*; whereas by the law of the land, the verdict on the said issue, as to those counts, ought to have been given for the said *C. D.*. There is also error in this, to wit, that by the record aforesaid it appears, that the aforesaid judgment, in form aforesaid given, was given for the said *A. B.* against the said *C. D.* as to the said first five counts of the said declaration, whereas by the law of the land, judgment ought to have been given upon those counts, for the said *C. D.* against the said *A. B.* And the said *C. D.* prays that the judgment aforesaid, as to the said first five counts of the said declaration, for the errors aforesaid, and others in the record and proceedings aforesaid, may be reversed, annulled and altogether held for nothing, and that he the said *C. D.* may be restored to all things which he hath lost by occasion of the judgment aforesaid, &c.

And

And hereupon the said *C. D.* says, that in the record and proceedings aforesaid, and also in the matters recited and contained in the said bill of exceptions, and also in the giving of the judgment aforesaid, there is manifest error in this, to wit, that the aforesaid chief-justice and his companions, justices before whom, &c. did not inform the jurors of the jury aforesaid, &c. (as in the bill of exceptions.) There is also error in this, to wit, that by the record aforesaid it appears, that the judgment aforesaid, in form aforesaid given, was given for the said *A. B.* against the said *C. D.*; whereas by the law of the land, the said judgment ought to have been given for the said *C. D.* against the said *A. B.*: And the said *C. D.* prays the writ of our lord the king, to warn the said *A. B.* to be before our said lord the king at *Westminster*, to hear the record and proceedings aforesaid; and it is granted to him: Therefore it is commanded to the sheriff, that he make known to the said *A. B.* that he be before our said lord the king, on, (&c.) to hear the record and proceedings aforesaid, if, &c.; the same day is given to the said *C. D.* &c. At which day, before our said lord the king at *Westminster*, comes the said *C. D.* by his attorney aforesaid; and the sheriff hath not sent the writ aforesaid; and the said *A. B.* by *E. F.* his attorney, freely here in court, likewise comes: Whereupon the said *C. D.* as before says, that in the record and proceedings aforesaid, and in the matters recited and contained in the said bill of exceptions, and also in the giving of the judgment aforesaid, there is manifest error; alledging the errors aforesaid, by him the said *C. D.* in form aforesaid above alledged; and he prays that the judgment aforesaid, on account of those errors, and others in the record and proceedings aforesaid, may be revoked, annulled and altogether held for nothing, and that he may be restored to all things which he hath lost on occasion of the judgment aforesaid; and that the said *A. B.* may rejoice to the errors aforesaid; and that the court of our said lord the king here may proceed to examine, as well the record and proceedings aforesaid, as the matters aforesaid above assigned for error, &c.

C. D.

CHAP. XLI.

(§ 12)
Assignment of
the writ of an
original writ,
and warrants
of attorney &c
concerning the
Common Pleas
at Lancaster

C. D. } Afterward, to wit, on — the — day of —
v. } in this same term, before our lord the king at
A. B. } *Westminster*, comes the said *C. D.* by *G. H.*
in error } his attorney, and says that in the record and pro-
ceedings aforesaid, and also in giving the judgment aforesaid,
there is manifest error in this, to wit, that by the record afore-
said it appears, that the said *C. D.* was attached to answer to
the said *A. B.* in the plea aforesaid, yet no original writ between
the parties aforesaid, in the plea aforesaid, is filed or remain-
ing of record in the said court of our said lord the king be-
fore his justices at *Lancaster* aforesaid; therefore in that
there is manifest error. There is also error in this, to wit,
that by the record aforesaid it appears, that the said *A. B.*
appeared by *I. F.* his attorney, against the said *C. D.* in
the plea aforesaid, nevertheless there is no warrant of attorney
filed or remaining of record in the said court of our said lord
the king before his justices at *Lancaster* aforesaid, between
the parties aforesaid, in the plea aforesaid, to warrant the
said *I. F.* to be attorney for the said *A. B.* against the said
C. D. in the plea aforesaid, therefore in that there is manifest
error. There is also error in this, to wit, that by the record
aforesaid it appears, that the said *C. D.* appeared by *G. H.*
his attorney, at the suit of the said *A. B.* in the plea aforesaid;
nevertheless there is no warrant of attorney filed or remaining
of record in the said court of our said lord the king before his
justices at *Lancaster* aforesaid, between the parties aforesaid,
in the plea aforesaid, to warrant the said *G. H.* to be attorney
for the said *C. D.* at the suit of the said *A. B.* in the plea
aforesaid; therefore in that there is manifest error. There is
also error in this, to wit, that the declaration aforesaid, and
the matters therein contained, are not sufficient in law for
the said *A. B.* to have or maintain his aforesaid action thereof
against the said *C. D.*, therefore in that there is manifest
error. There is also error in this, to wit, that by the record
aforesaid it appears, that the judgment aforesaid, in form
aforesaid given, was given for the said *A. B.* against the said
C. D. whereas by the law of the land, the said judgment
ought to have been given for the said *C. D.* against the said
A. B. And the said *C. D.* prays the writs of our said lord
the king, to be directed to the *custos breviarum*, and justices
of

of the said court of our said lord the king before his justices CHAP. XI.I.
at *Lancaster* aforesaid respectively, to certify to our said lord
the king the truth of the premises; and it is granted to him,
&c. And the said *C. D.* prays that the judgment aforesaid,
for the errors aforesaid, and other errors in the record and
proceedings aforesaid, may be reversed, annulled and alto-
gether held for nothing, and that he may be restored to all
things which he hath lost by occasion of the said judgment,
&c.

George the Third, (&c) To the sheriff of — greeting. (§ 63)
Because in the record and proceedings, and also in the giving Sci. fi. is ad
a di. nd. m. cr. l.
of judgment, in a plaint which was in our court before Sir r. r. n. cr. r.
from t. e. Com-
mon Pleas.
Picary Gibbs knight and his companions, our justices of the
bench, by our writ, between *A. B.* plaintiff and *C. D.* late of
— defendant, of a plea of trespass on the case, (or as the
plea is,) as it is said, manifest error hath intervened, to the
great damage of the said *C. D.* as by his complaint we are
informed; the record and proceedings of which said judgment,
we have lately caused to be brought before us, for certain
causes of error, and the said *C. D.* hath duly assigned errors of
record upon the judgment aforesaid. And we being willing
that the error, if any there be, should in due manner be cor-
rected, and full and speedy justice done to the parties aforesaid,
as is just, command you, that by good and lawful men
of your bailiwick, you make known to the said *A. B.* that he
be before us, on — wheresoever we shall then be in *Eng-
land*, to hear the record and proceedings aforesaid, if it shall
seem expedient for the said *C. D.*, and further to do and re-
ceive what our said court before us shall consider of the said
A. B. in this behalf, and have there the names of those by
whom you shall so make known to him, and this writ. Wit-
ness *Edward Lord Ellenborough, (&c)*

George the Third, (&c) To the sheriff of — greeting. (§ 64)
Whereas lately in our court, before Sir *Picary Gibbs* knight The lie. cu.
jud. in ut in
c. r. p. r. r.
r. g. n. t. t. e. g.
nants
and his companions, our justices of the bench at *Westminster*,
it was considered, that *A. B.* should have execution against
E. F. and *G. H.* tenants of the lands and tenements of
C. D. late of — then deceased, as well of a certain debt
of — l. as of — l. which in our said court of the bench
R 1 aforesaid,

CHAP. XLI. aforesaid, were adjudged to the said *A. B.* against the said *C. D.* for his damages which he had sustained on occasion of the detaining of that debt; whereof the said *E. F.* and *G. H.* on our writ of *scire facias*, bearing against the tenants of the lands and tenements in the said writ by the judgment aforesaid, are convicted: and in the execution of the execution aforesaid, an error hath intervened, in the record and proceedings at that adjudication, to the great damage of the said *C. D.* as by their complaint we are informed; which said judgment and writ of *scire facias*, in the causes of error, we lately caused to be brought before us, it appears to us of record: Therefore we command you, that by good and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us, on — wheresoever we shall then be in *England*, to hear the record and proceedings aforesaid, if it shall seem expedient for the said *E. F.* and *G. H.*; and further to do and receive, &c. (as in the last.)

(§ 65.)
The like, on
error from an
inferior court.

George the Third, (&c.) To the sheriff of — greeting:
Because in the record and proceedings, and also in the giving of judgment, in a plaint lately levied in our court of —, before the judges of the same court, between *A. B.* and *C. D.* of a plea of trespass on the case, (or as the plea is,) manifest error hath intervened, to the great damage of the said *C. D.* as by his complaint we are informed; which said record and proceedings we have for certain reasons, caused to come in our court before us; and the said *C. D.* hath duly assigned errors of record upon the judgment aforesaid: And we being willing, &c. (as before, p. 609. § 63.)

(§ 66.)
The like, on
error to reverse
an outlawry,
in the King's
Bench.

George the Third, (&c.) To the sheriff of — greeting:
Whereas *A. B.* lately in our court before us, impleaded *C. D.* late of — in a plea that whereas, &c. (reciting the original writ,) to the damage of the said *A. B.* of —, as it is said; and the said *C. D.* because he did not come before us, to answer to the said *A. B.* in the same plea, was put in *exigent*, and in your county-court, (or “in the hustings of pleas of land, holden in the *Guildhall* of the city of *London*,”) on that occasion was afterwards outlawed; as by the record and

and proceedings thereof, remaining in our said court before us, manifestly appear: And because on behalf of the said *C. D.* as we are informed, manifest error hath intervened in the record and proceedings aforesaid, and also in the pronouncing of the outlawry aforesaid, and thereupon the said *C. D.* hath presented our writ directed to our justices assigned to hold pleas in our court before us, commanding them that the record and proceedings aforesaid being inspected, they cause to be made a writ of *disseisin*, for the annulling of the outlawry aforesaid, if it be right, and according to the law and custom of *England* to be done in the premises; and the said *C. D.* hath the same duly assigned his errors of record, as by the inspection thereof likewise appears to us; Therefore we command you, that by good and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us, on — wheresoever we shall then be in *England*, to hear the record and proceedings aforesaid, and also the errors assigned in the pronouncing of the outlawry aforesaid, if it shall seem expedient for the said *C. D.*: and further to do and receive, &c. (as before, p. 609. § 63)

George the Third, (&c.) To the sheriff of — greeting. (§ 67)
 Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before Sir *Vicary Gibbs* knight and his companions, our justices of the bench at *Westminster*, upon a writ of entry *sur disseisin en le post*, between *A. B.* demandant and *C. D.* deforçant, of — messuages, and — acres of land with the appurtenances, in the parish of — in your said county, and in which said plaint the said *C. D.* then tenant of the tenements aforesaid with the appurtenances, in the same court vouched thereof to warranty *E. F.* who did warrant the same to him, and further thereof vouched to warranty *G. H.* who did warrant the same to him, which said record and proceedings we lately caused to be brought and they now remain before us, manifest error hath intervened, to the great damage of *I. K.* as by his complaint we are informed: And we being willing that the error, if any there be, should in due manner be corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you, that by honest and lawful men of your

The like, on error to reverse a common recovery.

CHAP XLII bailiwick, you make known to the said *A. B.* and also to *I. M.* (&c.) the now tenants of the tenements aforesaid, that they be before us, on ———— wheresoever we shall then be in *England*, to hear the record and proceedings aforesaid, if it shall seem expedient for the said *A. B.* ———— further to do and receive, &c. (1199. § 68.)

(§ 69)
Jury in error in the King's Bench.

A. B. And hereupon afterwards, to wit, on ———— next
ats. ———— term, in the ———— year of the
C. D. reign of our said lord the king, the said *A. B.*
in error. by *E. F.* his attorney, freely comes here into court, and says that there is no error either in the record and proceedings aforesaid, or in giving the judgment aforesaid; and he prays that the court of our said lord the king now here, may proceed to examine as well the record and proceedings aforesaid, as the matters aforesaid above assigned for error, and that the judgment aforesaid, in form aforesaid given, may be in all things affirmed, &c. But because, (&c.)

(§ 69)
The like, after a rule given to return the writs, with an entry of non misdemeanor.

A. B. } Whereupon ———— next after ———— in this same term,
ats. } is given by the court of our said lord the king
C. D. } now here, to return to the court of our said
in error } lord the king, the several writs of *certiorari*
above prayed; the same day is given to the said *A. B.* there, &c. And the said chief-justice of our said lord the king of the bench aforesaid, and the said *custos breviarum* of the same court, at that day did not return the said writs, nor did they do any thing thereon. And hereupon the said *A. B.* comes voluntarily into court, by ———— his attorney, and says that there is not any error either in the record and proceedings aforesaid, or in giving the said judgment; and he prays that the said court of our said lord the king here, may proceed to examine as well the record and proceedings aforesaid, as the said matters above assigned for error, and that the judgment aforesaid may be in all things affirmed, &c. But because, (&c.)

(§ 70)
The like, after a bill of exception, on a trial

And hereupon afterwards, to wit, on ———— next after ————
in ———— term, in the ———— year of the reign of our said lord the king, (the day of joining in error,) the said *A. B.* freely comes

comes here into court, and saith that there is no error, either in the record and proceedings aforesaid, or in the matters recited and contained in the said bill of exceptions, or in giving the verdict upon the said issue between the parties aforesaid joined, as to the first, the counts of the said declaration, or in giving the judgment aforesaid; and he prays that the court of our said lord the king now here may proceed to examine, as well the record and proceedings aforesaid, as also the several matters aforesaid, and the above assigned for error, and that the judgment aforesaid in form aforesaid given, may be in all things affirmed, &c. because, (&c.)

CHAR. XII.
before the chief-
justice, in C. P.

A. B. } And the said *A. B.* by *E. F.* his attorney, comes
ats. } and says that the said *C. D.* ought not further
C. D. } to prosecute or maintain his writ of error aforesaid,
in error. } against him the said *A. B.*; because he says that
after the judgment aforesaid, in form aforesaid recovered, and
before the day of suing out the said writ of error, to wit,
on — at —, he the said *C. D.* by the name of —, by his
certain writing of release, sealed with the seal of him the
said *C. D.* and to the court of our said lord the king now here
shewn, the date whereof is the same day and year aforesaid,
did remise, release and for ever quit claim to the said *A. B.* by
the name of —, his heirs executors and administrators, all and
all manner of error and errors, writ and writs of error, and
all benefits and advantages of the same, and all misprisions of
error and errors, defects and imperfections whatsoever, had,
made, committed, omitted, done or suffered in about touch-
ing or concerning the judgment aforesaid, obtained against
him the said *C. D.* by the said *A. B.* in the said — term
then last past, in the said court of our said lord the king of
Common Bench at Westminster, for — l. of debt, besides
costs of suit, or in about touching or concerning any war-
rant, process, original, declaration, plea, entry or other pro-
ceeding whatsoever, of or in any manner concerning the
same judgment; as by the said writing of release more fully
appears: And this he the said *A. B.* is ready to verify, where-
fore he prays judgment, if the said *C. D.* ought further to
prosecute or maintain his writ of error aforesaid against him
the said *A. B.* &c.

(§ 71.)
Plea of release
of errors.

C. D.

CHAP. XLI.

(§ 72)
Replacation
thereto.

C. D.

v.

A. B.

And the said C. D. says, that he, by reason of any thing by the said A. B. in his said plea above alledged, ought not to be barred from further prosecuting and maintaining his writ of error aforesaid against the said A. B. of the errors aforesaid; because he says that the said A. B. or counsel by him the said A. B. in manner aforesaid above pleaded in bar of the errors aforesaid, which the said C. D. above assigned, is not the case. And this he the said C. D. prays may be ordered by the court, &c.

(§ 73)
Assignment of
general errors,
in the Exche-
quer-chamber.

C. D.

v.

A. B.

Afterwards, to wit, on the — day of — in this same term, before the justices of our lord the king of the Bench, and the barons of the Exchequer of our said lord the king of the degree of the coif, in the Exchequer-chamber at Westminster, comes the said C. D. by G. H. his attorney, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, &c. (as before, p. 602. § 50.)

(§ 74)
The like, on
judgment re-
ceived by *scire
facias*.

C. D.

v.

A. B.

Afterwards, to wit, on the — day of — in this same term, before the justices of our lord the king of the Bench, and the barons of the Exchequer of our said lord the king of the degree of the coif, in the Exchequer-chamber at Westminster, comes the said C. D. by G. H. his attorney, and says that in the record and proceedings aforesaid, and also in giving the judgment and award of execution aforesaid, there is manifest error in this, to wit, that there is not any such record of the supposed recovery against him the said C. D. at the suit of the said A. B. remaining in the said court of our said lord the king before the king himself at Westminster aforesaid, as the said A. B. hath above in that behalf alledged; therefore in that there is manifest error: There is also error in this, to wit, that by the record aforesaid it appears, that execution was adjudged to the said A. B. of the damages in the said writs of *scire facias* mentioned, according to the form and effect of the said supposed recovery therein also mentioned, although

although no such recovery was had by the said *A. B.* against the said *C. D.*, therefore in that there is manifest error: And the said *C. D.* prays that the judgment and award of execution aforesaid, in form aforesaid given and made, for the above and other errors in the record and proceedings aforesaid, may be reversed, annulled and altogether held for nothing, and that he the said *C. D.* may be restored to all things which he hath lost by occasion of the said judgment and award of execution, and that the same be done as to the said errors, &c.

C. D. } Afterwards, to wit, on the *day of* in *(§ 75)*
v. } this same term, before the justices of our lord *Assignment of*
A. B. } the king of the Bench, and the barons of the *the want of a*
in error. } Exchequer of our said lord the king of the degree *bill and war-*
of the conf, in the Exchequer-chamber at Westminster, comes *rant of attor-*
the said *C. D.* by *G. H.* his attorney, and says that in the *ney*
record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error in this, to wit, that there is no bill filed and remaining of record in the court of our said lord the king before the king himself, to warrant or support the judgment or proceedings aforesaid; therefore in that there is manifest error. There is also error in this, to wit, that by the record aforesaid it appears, that the said *A. B.* appeared by *E. F.* his attorney, against the said *C. D.* in the plea aforesaid, nevertheless there is no warrant of attorney filed and remaining of record in the said court of our said lord the king before the king himself, to warrant such appearance of the said *A. B.*; therefore in that there is manifest error. There is also error in this, to wit, that the declaration aforesaid, and the matters therein contained, are not sufficient in law, &c. (assigning the common errors as before, p. 602. § 50): Whereupon the said *C. D.* prays his majesty's writ of *certiorari*, to be directed to his said majesty's chief-justice of the said court of our said lord the king before the king himself, to certify more fully the truth of the premises, to the justices and barons aforesaid; and it is granted to him, &c. And the said *C. D.* also prays that the judgment aforesaid, in form aforesaid given, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled and altogether held for nothing, and that he the said *C. D.*

CHAP. XLII. *C. D.* may be restored to all things which he hath lost by occasion of the said judgment, and that the said *A. B.* may rejoin to these errors, &c.

(§ 76.)
Certiorari for a
bill, to the
chief-justice of
the King's
Bench.

George the Third, &c. To our right trusty and well-beloved *Edward Lord Ellenborough*, our chief-justice assigned to hold pleas in our court before us, greeting: We being willing for certain cases to be certified, whether there be any bill filed against the said *A. B.* in a plea of trespass on the case, or in a plea of trespass on the case, or not; do command you that having searched the files and other remembrances of the bills of the county of —, of the term of — in the — year of our reign, which are filed of record in your custody, what you shall find therein of the said bill between the parties aforesaid, of the plea aforesaid, you do certify without delay to our justices of the Common Bench and the barons of our Exchequer, in our court of Exchequer-chamber at *Westminster*, together with this writ. Witness Sir *Vicary Gibbs* knight, (&c.)

(§ 77.)
Return of a bill
thereto.

The answer of *Edward Lord Ellenborough*, the chief-justice within named.

Having searched the files and other remembrances of the bills of the county of —, of the term of — in the — year of the reign of our said lord the king, affiled of record in my custody; I there find a certain bill of the same term, between the parties within-mentioned, of the plea within specified; the tenor of which said bill is set forth in a certain schedule to this writ annexed: And this I certify to his said majesty's justices of the Common Bench, and barons of the Exchequer within written, as I am within commanded.

Ellenborough.

(§ 78.)
Certiorari for a
bill and war-
rant of inter-
ney, to the
chief-justice of
the King's
Bench.

George the Third, &c. To our right trusty and well-beloved *Edward Lord Ellenborough*, our chief-justice assigned to hold pleas in our court before us, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before us, by bill, between *A. B.* and *C. D.* of a plea of trespass on the case, (or as the plea is,) as it is said, manifest error hath intervened, to the great damage of the said *C. D.* as by his complaint we are

are informed; the record and proceedings of which said judgment we have lately caused to be brought before our justices of our Common Bench, and our barons of our Exchequer of the degree of the coif, to correct the errors in the same, according to the form of the writs in such case made and provided in the chamber of our Exchequer aforesaid: And the said *C. D.* appearing in the said Exchequer-chamber, hath said that there is no bill filed (reciting so much of the assignment as is necessary to the want of a bill and warrant of attorney): And being willing to be certified of the premises aforesaid, he hath, in behalf, commanded you, that having searched the files and other remembrances of bills of the county of —, of — term in the — year of our reign, and which are filed of record in your custody, and also the rolls and other memorandums of warrants of attorney of the same term, in your custody likewise remaining of record, what you shall find therein, concerning the said bill and warrant of attorney, you certify to our justices of the Common Bench and barons of our Exchequer of the degree of the coif, immediately, into the chamber of our Exchequer aforesaid, together with this writ. Witness Sir *Vicary Gibbs* knight, (&c.)

The answer of *Edward Lord Ellenborough*, the chief-justice within named.

(§ 79.)
Return thereto,
that there is no
bill, or warrant
of attorney.

Having searched the files of bills of the county of —, of — term within written, being in my custody of record, I find no bill filed of record between the parties within written, of the plea within specified: Having also searched the rolls and other memorandums of warrants of attorney of the same term, being likewise in my custody of record, I there find no warrant of attorney filed of record, between the parties within written: And this I certify to his said majesty's justices of the Common Bench and barons of the Exchequer within written, as I am within commanded.

Ellenborough.

A. B. } And hereupon the said *A. B.* by — his attorney, freely comes before the justices of our said lord the king of the Bench, and the barons of the Exchequer of our said lord the king of the degree

(§ 80.)
Joinder in error, in the Exchequer-chamber.

of

CHAP. XLI. of the said, in the Exchequer-chamber at *Westminster* aforesaid, and says that there is not any error in the record and proceedings aforesaid, in giving the judgment aforesaid; and he prays that the said Court of Exchequer-chamber of our said lord the king, may please to examine as well the record and proceedings aforesaid, as the matter aforesaid above assigned, and that the judgment aforesaid, in form aforesaid, may be affirmed, &c. But because

(§ 81.)
Assignment of
general errors,
in the House
of Lords.]

C. D. } that is to say, on the — day of
v. } — in the — year of the reign of our sovereign
A. B. } lord *George* the third, king of the united kingdom
in error. } of *Great Britain* and *Ireland*, &c. before our said
lord the king and the peers of this realm, in this present parliament at *Westminster* in the county of *Middlesex* assembled, comes the said *C. D.* by *G. II.* his attorney, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, &c. (as before, p. 602. § 50.)

(§ 82.)
The like, after
affirmance in
the Exchequer-
chamber.

Afterwards, that is to say, on the — day of — in the — year of the reign of our sovereign lord *George* the third, king of the united kingdom, of *Great Britain* and *Ireland*, &c. before our said lord the king and the peers of this realm, in this present parliament at *Westminster* in the county of *Middlesex* assembled, comes the said *C. D.*, by *G. II.* his attorney, and says that in the record and proceedings aforesaid, and also in giving and affirming the judgment aforesaid, there is manifest error in this, to wit, that by the record aforesaid it appears, that the judgment aforesaid, given by the said court of our said lord the king before the king himself at *Westminster* aforesaid, was given for the said *A. B.* against the said *C. D.* whereas by the law of the land, the said judgment ought to have been given for the said *C. D.* against the said *A. B.*; therefore in that there is manifest error: There is also error in affirming the said judgment; because he says that the judgment aforesaid was affirmed in the court of our lord the king of Exchequer-chamber at *Westminster*, before the justices of the Common Bench and the barons of the said Exchequer;

Exchequer; whereas no such affirmation of the said judgment CHAP. XLI. ought to have been given thereupon, but by the law of the land the said judgment ought to have been reversed; therefore in that there is manifest error: And the said *C. D.* prays that the judgment be reversed for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled and altogether held for nothing, and that he may be restored to all things which he has lost by occasion of the said judgment, and that the said *A. B.* may be restored as aforesaid, and that the said *C. D.* may be restored to the errors above assigned, &c.

Afterwards, that is to say, on the — day of — in the — year of the reign of our sovereign lord *George* the third, king of the united kingdom of *Great Britain* and *Ireland*, &c. before our said lord the king and the peers of this realm, in this present parliament at *Westminster* in the county of *Middlesex* assembled, comes the said *A. B.* by *E. F.* his attorney, and says that in the record and proceedings aforesaid, and also in the reversal of the judgment, in form aforesaid given in the said court of our said lord the king before the barons of his Exchequer aforesaid, there is manifest error in this, to wit, that by the record aforesaid it appears, that the said last-mentioned judgment was reversed in and by the said court of our said lord the king in the Exchequer-chamber aforesaid; whereas, by the law of the land, the said last-mentioned judgment ought to have been affirmed in the same court; therefore in that there is manifest error: And the said *A. B.* prays that the said last-mentioned judgment, for the above and other errors in the record and proceedings aforesaid, may be affirmed, and that the reversal thereof in the said Exchequer-chamber may be reversed, annulled and altogether held for nothing, and that he the said *A. B.* may be restored to all things which he has lost on occasion of the reversal of the said last-mentioned judgment, and that the said *C. D.* may rejoin to these errors, &c.

(§ 83.)
The like, after reversal in the Exchequer-chamber in *Ireland*, of a judgment in the Exchequer there, for the plaintiff.

A. B. } And the said *A. B.* by — his attorney, comes
ats. } and says, that there is no error either in the record
C. D. } and proceedings aforesaid, or in giving the judgment
in error. } aforesaid; and he prays that the court of

(§ 84.)
Joinder in error, in the House of Lords.

our

CHAP. XLI our lord the king in his parliament here, may proceed to examine as well the record and proceedings aforesaid, as the matters aforesaid above assigned for error, and that the judgment aforesaid may be in all things affirmed, &c. But because the court of our said lord the king in his parliament aforesaid, is not at present open, to give of and concerning the premises any judgment, shewen to the said parties here, and wherefore, &c. to hear their judgment thereon, our said lord the king in his parliament aforesaid, hath commanded thereof, &c.

(§ 85)
Issue on error
coram nobis.

(After copying the judgment-roll in the original action, proceed on a new line as follows)

Afterwards, to wit, on — next after —, in the — year of the reign of our sovereign lord *George* the third, now king of the united kingdom of *Great Britain and Ireland*, &c. before our said lord the king at *Westminster*, comes the said *C. D* in his proper person, (or “by — his attorney,” or, if he be an infant, “by *G. H.* his guardian, by the court of our said lord the king hereunto specially admitted,”) and brings into the court of our said lord the king now her, a certain writ of our said lord the king, for correcting error of and upon the premises aforesaid, which said record and proceedings now remain in the said court of our said lord the king before the king himself here; and he prays that the said writ may be allowed, and it is allowed him, by the same court here, &c., which said writ follows in these words, to wit: *George* the third, &c. (here copy the writ of error, and proceed with the assignment of errors as follows):

Whereupon the said *C. D* says, that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, &c. (to the end of the pleadings, beginning each with a new line, and conclude, by *bill*, with the following award of *venue faciam*). Therefore let a jury thereupon come before our lord the king at *Westminster*, on — next after —, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid, at the same place: (Or, by *original*, “it is commanded to the sheriff of —,” &c. as before, p 275.)

— term,

— term, (the term the transcript was brought in,) in **CHAP. XLJ.**
 the — year of the reign of king *George* the Third. (§ 86.)

England, to wit. Our lord the king hath sent to his right
 trusty and well-beloved Sir *Vicary* his knight, his chief-
 justice of the *King's Bench*, to wit: The like, on er-
 ror in law, in
 the King's
 Bench.
George the third, to wit, the writ of error and return,
 with the proceedings in the original action, as in the tran-
 script, and proceed in the line aforesaid.

Afterwards, to wit, — In this same term,
 before our lord the king at *Westminster*, comes the said *C. D.*
 by *G. H.* his attorney, and says, that the record and pro-
 ceedings aforesaid, and also in giving the judgment aforesaid,
 there is manifest error, &c. (here copy the assignment of er-
 rors, and joinder in error, and conclude with a continuance
 by *curia advisari vult*, as follows): But because the court of
 our said lord the king now here, are not yet advised what
 judgment to give of and upon the premises, a day is there-
 fore given to the parties aforesaid, before our said lord the
 king, until — wheresoever our said lord the king shall then
 be in *England*, to hear the judgment aforesaid; for that the
 court of our said lord the king now here is not yet advised
 thereof, &c.

(As in the last, to the end of the transcript, and then as follows :) (§ 87.)

The like, after
 a *scire facias*
quare executionem non.

Afterwards, to wit, on — next after — in this same
 term, before our lord the king at *Westminster*, comes the said
A. B. by his attorney aforesaid, and says that execution of
 the said judgment still remains to be made to him; therefore
 he prays the writ of our said lord the king, to be directed to
 the sheriff of the county of — aforesaid, that he make
 known, &c. (as in the entry of a *non-pros* in the King's Bench,
 for not assigning errors, after a *scire facias quare executionem non*,
 for which *vide post*, p. 630, 31. to the day given by the
 rule for the plaintiff, to assign errors, and then as follows :)
 At which day, before our said lord the king at *Westminster*,
 comes the said *A. B.* by his attorney aforesaid; and the said
C. D. being solemnly called, also comes by — his attorney,
 and says that in the record and proceedings aforesaid, and
 also in giving the judgment aforesaid, there is manifest error,

&c

CHAP. XLI. &c. (here copy the assignment of errors and joinder, and conclude with a continuance by *curia advisari vult*, as in the last.)

(§ 88.)

The like, after a *certiorari*, on error assigned for want of an original writ.

(As in the last, to the assignment of errors, and then as follows.)

Which said writ of *certiorari* so prayed and granted, follows in these words: *George the third, &c.* (here copy the writ of *certiorari*, and proceed as follows:) Which said keeper of the writs, and the said searched and certified to our said lord the king, that he had searched the original writs, &c. (here recite the return, as before, p. 604:) And which said schedule, so annexed to the said writ of *certiorari*, follows in these words, to wit: *George the third, &c.* (here copy the schedule:) Which said writ of *certiorari*, together with the return of the same, is filed among the records without day, of — term aforesaid. And hereupon afterwards, to wit, on — in — term, in the — year of the reign of our said lord the king, the said *A. B.*, by *E. F.* his attorney, freely comes here into court, and says that there is no error, &c. (here copy the joinder in error, and conclude with a continuance by *curia advisari vult*, as in the last but one.)

(§ 89.)

The like, after a *certiorari*, on error assigned for want of a warrant of attorney.

— Which said writ of *certiorari* so prayed and granted, follows in these words, to wit: *George the third, &c.* (here copy the writ of *certiorari*, and proceed as follows): Which said chief-justice of the Bench aforesaid returned and certified to our said lord the king, that by virtue of the said writ of *certiorari*, he had searched, &c. (here recite the return, and copy the schedule, &c. as in the last.)

(§ 90.)

The like, after a *scire facit* returned, on a *scire facias ad audiendum errores*.

(As before, p. 621, § 86. to these words in the assignment of errors, "And this he the said *C. D.* is ready to verify," and then as follows:)

And the said *C. D.* prays the writ of our said lord the king, to warn the said *A. B.* to be before our said lord the king, to hear the record and proceedings aforesaid, and the matters aforesaid for error assigned; and it is granted to him, &c. by which it is commanded to the sheriff of the county aforesaid, that by good and lawful men of his bailiwick, he make known

known to the said *A. B.* that he be before our said lord the king, on ——— whereupon our said lord the king shall then be in *England*, to hear the record and proceedings aforesaid, and the matter aforesaid for error assigned, if, &c. and further to do and receive as the said lord the king shall command. And the same day is given to the said *A. B.* at the day, before our said lord the king his next coming, to come before the said *A. B.* by his attorney aforesaid, to answer to the said *A. B.*; and the sheriff, to wit, ——— sheriff of the said county, returns that by virtue of the said writ so directed, he hath by ——— and ——— good service caused it to be made known to the said *A. B.* that he be before our said lord the king, at the time in the said writ mentioned, as by the said writ he was commanded, &c. And the said *A. B.* being solemnly called, comes by ——— his attorney, whereupon the said *C. D.* as before saith, that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, by alledging the said errors by him in form aforesaid alledged; and he prays that the judgment aforesaid, in form aforesaid given, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled and altogether held for nothing, and that he may be restored to all things which he hath lost by occasion of the said judgment, &c.

And the said *A. B.* by his attorney aforesaid, comes and says, that there is no error, &c. (here copy the joinder in error, and conclude as before)

(As in the list, to the day given on the *scire facias*, and then as follows)*

(§ 91.)
The like after
two *inhibs* re-
turned

At which day, before our said lord the king at *Westminster*, comes the said *C. D.* by his attorney aforesaid; and the sheriff, to wit, ——— sheriff of the said county, returns that the said *A. B.* hath not any thing in his bailiwick, where or by which he can give him notice, as by that writ he was commanded, neither is the said *A. B.* found in the same; and the said *A. B.* doth not come. Therefore, as before, it is commanded to the said sheriff of ———, that by good, &c. he make known to the said *A. B.* that he be before our said lord the

CHAP. XLI. the king, on —, (the return of the second *scire facias*,) wheresoever our said lord the king shall then be in *England*, to hear the record and proceedings aforesaid, if, &c. and further, &c.; the same day is given to the said *C. D.* &c.: At which day, before our said lord the king at *Westminster* aforesaid, comes the said *C. D.* by *G. H.* his attorney; and the sheriff of the county aforesaid as before returns, that the said *A. B.* hath not any thing in his hands, where or by which he can make known to him, (&c.) as he found in the same; and the said *A. B.* being solemnly called, comes by — his attorney: Whereupon the said *C. D.* as before saith, &c. (as in the last.)

(§ 92)
The 1st &c. after
a bill of excep-
tions on a trial
before the
chief justice,
in C. P.

— term, (the term the transcript was brought in,)
in the — year of the reign of king *George* the
Third

England, to wit. Our lord the king hath sent to his right trusty and well beloved Sir *Francis Gibbs* knight, his chief-justice of the Bench, his writ close in these words, to wit *George* the third, &c. (here copy the writ of error and return, with the proceedings in the original action, to the end of the issue, as in the transcript, and proceed on a new line, as follow.)

Afterward, to wit, on the — day of — * in this same term, before our lord the king at *Westminster*, comes the said *C. D.* by *G. H.* his attorney, and saith that at the sittings of *mir prius*, holden at the *Guildhall* of the city of *London* aforesaid, in and for the said city, at the trial of the aforesaid issue, certain exceptions were taken and made by the counsel learned in the law of the said *C. D.* on behalf of the said *C. D.* to certain matters then given in evidence on the part of the said *A. B.* in the plea aforesaid, and the aforesaid exceptions were then and there written in a certain bill, and the aforesaid Sir *Francis Gibbs*, his majesty's chief-justice of the Bench, then and there put his seal to the said bill of exceptions, pursuant to the statute in such case made and provided. And the said *C. D.* brings here into court the said bill of exceptions, with the said seal of the said chief-justice put

* The day on which the chief-justice came into the court of King's Bench, and acknowledged his seal to the bill of exceptions

thereto,

thereto; and the said Sir *Vicary Gibbs*, chief-justice of the said court of the Bench, comes and acknowledges that he put his seal to the said bill of exceptions: which said bill of exceptions follows in these words, that is to say: (here copy the bill of exceptions, and afterwards the assignment of errors, and joinder, &c. as before.)

Afterwards, to wit, on — next after — in this same term, before our said lord the king at *Westminster*, comes the said *C. D.* by *G. H.* his attorney, and saith that in the court of our said lord the king of the Bench aforesaid, at *Westminster* aforesaid, at the trial of the issue aforesaid, on behalf of him the said *C. D.* certain exceptions were taken and made to certain matters then given in evidence on behalf of the said *A. B.* in the plea aforesaid, by the counsel learned in the law of him the said *C. D.*; and the exceptions aforesaid were then and there written in a certain bill; and the said Sir *Vicary Gibbs* knight, *John Heath* esquire, Sir *Alan Chambre* knight, and Sir *Robert Dallas* knight, his companions, justices of the Bench aforesaid, then and there affixed their respective seals to the said bill of exceptions, according to the form of the statute in such case made and provided: And the said *C. D.* brings here into court, the bill of exceptions aforesaid, with the respective seals of the same justices to the said bill affixed: And the said *C. D.* prays the writ of our said lord the king, to be directed to the same justices of the Bench, to command the same chief-justice and his companions aforesaid, to be before our said lord the king, where-soever, &c. and it is granted to him; by which it is commanded to the said Sir *Vicary Gibbs* knight, chief-justice of the Bench aforesaid, *John Heath* esquire, Sir *Alan Chambre* knight, and Sir *Robert Dallas* knight, his companions, justices of the Bench aforesaid, that they be before our said lord the king, on — wheresoever, &c. to acknowledge or deny the respective seals, which are affixed by them to the said bill of exceptions, as by the said *C. D.* is before asserted, bringing with them that writ; the same day is given to the said *C. D.* &c. At which day, before our said lord the king at *Westminster*, comes the said *C. D.* by his attorney aforesaid; and the aforesaid justices, to wit, Sir *Vicary Gibbs* knight, chief-justice aforesaid, and his companions, justices of the Bench

(§ 93.)
The like, after
a bill of excep-
tions, on a trial
at bar, in C. P.

CHAP. XLI. aforesaid, came in their proper persons, and acknowledged their seals by them affixed to the said bill of exceptions as aforesaid: which said bill of exceptions follows in these words, that is to say: — (here copy the bill of exceptions, and afterwards the assignment of errors, as before, p. 607: and the

(§ 94)
Rule for removal
from the King's
Bench to the
Exchequer-
chamber.

The rule for removal of a writ of error, is the same as on demurrer; see *Ch. 11*, p. 257.

(§ 95)
Issue on error
from the King's
Bench to the
Exchequer-
chamber.

Pleas in the Exchequer-chamber at Westminster, before Sir *Vicary Gibbs* knight, chief-justice of the Common Bench of our sovereign lord the king, Sir *Alfred Thomson* knight, chief-baron of the Exchequer of our sovereign lord the king of the degree of the coif, *John Heath* esquire, Sir *Alan Chamber* knight, and Sir *Robert Dallas* knight, the three other justices of the Common Bench of our sovereign lord the king, and also before Sir *Robert Graham* knight, Sir *George Wood* knight, and Sir *Richard Richards* knight, the three other barons of the Exchequer of our sovereign lord the king of the degree of the coif, on — the — day of — in the — year of the reign of king *George* the third, &c.

Our sovereign lord the king hath sent to his right trusty and well-beloved *Edward Lord Ellenborough*, his chief-justice assigned to hold pleas in the court of our said lord the king before the king himself, his writ close in these words, to wit: *George* the third, &c. (here copy the writ of error and return, with the proceedings in the original action, as in the transcript, and proceed as follows):

And thereupon comes here into court, in the said Exchequer-chamber, the said *C. D.* in his proper person, and prays a day to assign error or errors in the record and proceedings aforesaid; whereupon a day is given to him by the court here, to assign error or errors in the record and proceedings aforesaid, until — the — day of — next, &c.

Pleas in the Exchequer-chamber, &c. (as above, *mutatis mutandis*.)

And

And thereupon comes here into court, in the said Exchequer-chamber, the said *C. D.* in his proper person, and prays a further day to see error or errors in the record and proceedings aforesaid, and a further day is here given him by this court, to see error or errors in the record and proceedings aforesaid, on — day of — next, &c.

Pleas in the Exchequer-chamber, (as before).

At which day, comes here into court, in the said Exchequer-chamber, the said *C. D.* in his proper person, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, &c. (here copy the assignment of errors). And the said *C. D.* prays a writ to be directed to the sheriff of —, to give notice to the said *A. B.* that he be here, to hear the record and proceedings aforesaid; and it is granted to him, &c. Therefore the sheriff is commanded, that by good and lawful men of his bailiwick, he give notice to the said *A. B.* that he be here, on — the — day of — next, &c.

Pleas in the Exchequer-chamber, &c. (as before).

At which day, come here into court, in the said Exchequer-chamber, as well the said *C. D.* in his proper person, as the said *A. B.* in his proper person; and the sheriff did not send the writ, nor did he do any thing thereupon; therefore the said *C. D.* as before says, that in the record and proceedings aforesaid, and also in giving the said judgment, there is manifest error, by alledging the error aforesaid, by him above for error assigned and alledged; and he prays that the said judgment, by reason of that error, and other errors in the record and proceedings aforesaid, may be reversed, annulled and altogether held for nothing, &c.

And the said *A. B.* says, that there is not any error, &c. (here copy the joinder in error.) But because the court of our lord the king here is willing to advise among themselves of and upon the premises, before judgment is given thereupon, a day is given here to the said parties, till — the — day of — next, &c.

CHAP. XLI.

(§ 96)
Record of nisi
prius in error,
on an issue in
fact.

Pleas before our lord the king at *Westminster*, of the term of — in the — year of the reign of our sovereign lord *George* the third, by the grant of *Robert* the united kingdom of *Great Britain* and *Ireland* King, Defender of the faith, and in the year of our Lord

Roll — *Law & Markham.*

England, to wit, *John* the said — that to his trusty and well-beloved Sir *George* his chief-justice of the Bench, his wife, *John* in these words, to wit: *George* the third, &c. (here copy the writ of error and return, with the proceedings in the original action, and the transcript,* and proceed as follows):

* Afterwards, to wit, on — next after — in this same term, before our lord the king at *Westminster*, comes the said *C. D.* by *G. H.* his attorney, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, &c. (here copy the assignment of errors, and pleadings thereon, to the end of the issue and award of *venire facias*, and proceed with a second *placita*, &c. as follows):

Pleas before our lord the king, &c. (as above).

— to wit. The jury between *C. D.* by his attorney plain iff in error, and *A. B.* defendant, of a plea of error in fact, is respited before our lord the king, until — where-soever our said lord the king shall then be in *England*, unless the king's right trusty and well-beloved *Edward* Lord *Ellenborough*, his majesty's chief-justice assigned to hold pleas in the court of our said lord the king before the king himself, shall first come on — the — day of — at the *Guildhall* of the city of *London* (or "at *Westminster-hall* in the county of *Middlesex* aforesaid,") according to the form of the statute in such case made and provided, for default of the jurors, because none of them did appear. Therefore let the sheriff have the bodies of the said jurors, to make the said jury be-

* On a writ of error *coram nobis*, the proceedings must be entered on the same roll as the original judgment, or former writ of error. *Cro. Eliz.* 155 281. 1 *Ld. Raym.* 151. *Carth.* 369. *S. C.*

tween the parties aforesaid, of the plea aforesaid, accordingly; **CHAP. XII.**
the same day is given to the said parties, &c.

As yet of the reign of the said king *George the third*, *Lord Ellenborough*. (*§ 97*)
Entry of non-pros. in the King's Bench.

England, to wit. *C. D.* puts in his place *G. H.* his attorney, to prosecute his writ of error against *A. B.* in a plea of trespass on the case (or as the plea is).

England, to wit. The said *A. B.* puts in his place *E. F.* his attorney, at the suit of the said *C. D.* on the said writ of error, in the plea aforesaid.

England, to wit. Our lord the king hath sent to his right trusty and well-beloved — his chief-justice, (&c.) his writ close in these words, to wit *George the third*, &c. (here copy the writ of error and return, with the proceedings in the original action, as in the transcript, and proceed as follows.)

Afterwards, to wit, on — next after — in this same term, before our lord the king at *Westminster*, comes the said *A. B.* by *F. F.* his attorney, and prays that the said *C. D.* may assign errors of record, in the record and proceedings aforesaid, whereupon a day is given by the court of our said lord the king now here, until — next after —, that is to say, for the said *C. D.* to assign errors in the record and proceedings aforesaid. At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid, and the said *C. D.* although solemnly called, doth not come, nor hath he assigned any error of record, in the record and proceedings aforesaid, nor doth he further prosecute his said writ of error, but makes default. Therefore it is considered, that the said *C. D.* take nothing by his writ aforesaid, and that the said *A. B.* do go thereof without day, &c., and that the said *A. B.* have his execution against the said *C. D.* of his damages (or "debt and damages") aforesaid, according

CHAP. XLI. according to the force form and effect of the said recovery, &c. It is also considered, that the said *A. B.* do recover against the said *C. D.* ———— our said lord the king now here adjudged, with his assent, according to the form of the writ and cause made and provided for the day of the said writ, which he hath sustained and executed, and the said *A. B.* of execution of the judgment aforesaid, and the said *C. D.* of executing the said writ of error; and the said *C. D.* hath execution thereof, &c.; and the said *C. D.* ————

(§ 98.)

The like, after
a return of *scire
faci*, on a *scire
faci* quare exe-
cutionem non.

(As in the last of the end of the manuscript, and then as follows:)

Afterwards, to wit, on ——— next after ——— in this same term, before our lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid, and says that execution of the judgment aforesaid still remaineth to be made to him; therefore he prays the writ of our said lord the king, to be directed to the sheriff of the county of ——— aforesaid, that he make known to the said *C. D.* to be before our said lord the king, wheresoever, &c. to shew if he hath or knoweth of any thing to say for himself, why the said *A. B.* ought not to have his execution against him, of his damages costs and charges aforesaid, according to the force form and effect of the said recovery; and it is granted to him, &c. by which it is commanded to the sheriff of the county of ——— aforesaid, that by honest and lawful men of his bailiwick, he make known to the said *C. D.* that he be before our said lord the king, on ——— (the return of the *scire facias*), wheresoever, &c. to shew in form aforesaid, if, &c. and further, &c.; the same day is given to the said *A. B.* &c., At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid, and offers himself against the said *C. D.* in the plea aforesaid; and the sheriff, to wit, ——— sheriff of the said county of ——— returns, that by virtue of the said writ to him directed, by ——— and ——— honest, &c. he has given notice to the said *C. D.* to appear, &c. to shew, as by that writ he was required; and the said *C. D.* being solemnly called, doth not come, but makes default. And hereupon the said *A. B.* says, that the said *C. D.* hath not assigned any error or errors in the record and proceedings aforesaid; therefore a day is given

given to the parties aforesaid, to come before our said lord CHAP. XLI.
the king, on — wheresoever, &c. that is to say, for the said
C. D. to assign error in the record and proceedings
aforesaid, &c. — And the said lord the king
at Westminster, by his attorney afore-
said; and the said C. D. although solemnly called,
doth not come, nor does he further
prosecute his said writ of error. Therefore it is considered

(As in the last, to the sheriff's return, and then as follows :) (§ 99.)
And the sheriff, to wit, the sheriff of the said county, re- The like, after
turns that the said C. D. hath not any thing in his bailiwick, two miles re-
where or by which he can give him notice, as by that writ he turned.
was commanded, nor is the said C. D. found in the same;
and the said C. D. doth not come: Therefore, as before, the
said sheriff is commanded, that by honest, &c. he make known
to the said C. D. that he be before our said lord the king, on
— (the return of the second *scire facias*;) wheresoever, &c.
to shew in form aforesaid, if, &c. and further, &c.; the same
day is given to the said A. B. there, &c. At which day, be-
fore our said lord the king at Westminster, comes the said
A. B. by his attorney aforesaid, and offers himself against the
said C. D., and the aforesaid sheriff of the said county of
— as before returns, that the said C. D. hath not any thing,
&c. nor is the said C. D. found in the same, and the said
C. D. although solemnly called, doth not come, but makes
default. And hereupon, &c. (as in the last).

Pleas in the Exchequer-chamber, &c. (as before, p. 626. (§ 100.)
to the end of the second *placita*, and then as follows.) The like, on
error from the
K n ' Bench
to the Exche-
quer chamber.

At which day, the said C. D. being solemnly called, did
not come, neither does he further prosecute his said writ of
error. Therefore it is considered, that the said C. D. take
nothing by his said writ of error, but that he be in mercy, &c.
and that the said A. B. do go thereof without day, &c. And it
is further considered, that the said A. B. do recover against
the said C. D. — I. by the court of our said lord the king
adjudged to the said A. B. and with his assent, according to
the form of the statute in such case made and provided, for
his damages costs and charges which he hath sustained and
expended,

CHAP. XLI. expended by reason of the delay of execution of the judgment aforesaid, on pretence of prosecuting the said writ of error. Whereupon the justices and barons of the said justices of the Common Pleas, and barons of the Exchequer, before the said justices and barons of the Exchequer, before the said justices and barons of the Exchequer, before the said justices and barons of the Exchequer, according to the form of the statute in that behalf made, in the twenty seventh year of the reign of the said Edward the first, &c.

(§ 101)
The like, on
error in the
House of Lords

Afterwards, to wit, on the — day of — in the — year of the reign of our sovereign lord George the third, king of the said kingdom of Great Britain and Ireland, &c. before our lord the king and the peers of this realm, in this present parliament at Westminster in the county of Middlesex assembled, comes the said *A B* in his proper person, and prays that the said *C D* may assign errors in the record and proceedings aforesaid: therefore a day is given to the said *C D* before our said lord the king in parliament, to assign errors in the record and proceedings aforesaid, until — the — day of — instant. At which day, before our said lord the king in his parliament, comes the said *A. B.* in his proper person, and the said *C D* although solemnly called, doth not come, but makes default, nor doth he further prosecute the said writ for correcting errors against the said *A. B.* Therefore it is considered by the said court of our said lord the king in his parliament, that the said *C. D* take nothing by his said writ of error, but that he be in mercy, &c. and that the said *A. B.* do go thereof without day, &c. It is also considered by the said court of our said lord the king in his parliament, that the said *A. B.* recover against the said *C. D.* — by the court of our said lord the king in his parliament adjudged to the said *A. B.* and with his assent, for his damages costs and charges which he hath sustained and expended, by reason of the delay of execution of the judgment aforesaid, on pretence of prosecuting the said writ of error; and that the record and proceedings aforesaid be remitted from the court of parliament aforesaid, to the court of our said lord the king before the king himself, to the end that execution may be had thereupon, &c.

Cler. Parl.
— term,

— term, in the — year of the reign of King George CHAP. VII.
the third. (§ 102.)

A. B. against C. D.

the — day of —.

Rule for execution, on non-prossing a writ of error in the Exchequer of Pleas.

In the Exchequer of Pleas, upon writ of error depending on judgments, in the —

It is ordered, that the said writ be executed upon the judgment given in the said cause, in the Office of Pleas in the court of Exchequer, and his costs to be taxed thereupon, by reason of the default in execution, on account of a writ of error obtained by the said plaintiff; because the said plaintiff did not prosecute the writ of error aforesaid.

By the Court.

Rose.

(Entry of writs of attorney, as before, p. 629.)

(§ 103)
Affirmance in the King's Bench, of a judgment for the plaintiff.

England, to wit. Our lord the king hath sent to his right trusty and well beloved Sir *Vuany Gibbs* knight, his chief-justice of the Bench, his writ close in these words, to wit *George the third*, &c. (here copy the issue, to the end of the continuance by *curia adorari vult*, and proceed as follows): At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attorneys aforesaid; whereupon as well the record and proceedings aforesaid, and the judgment given in form aforesaid, as the matters aforesaid by the said *C. D.* above for error assigned, being seen and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the court of our said lord the king now here, that there is no error, either in the record and proceedings aforesaid, or in giving the judgment aforesaid. Therefore it is considered that the judgment aforesaid, in form aforesaid given, be in all things affirmed, and stand in full force and effect, the several matters above for error assigned in any-wise notwithstanding: And it is further considered, that the said *A. B.* do recover against the said *C. D.* as well his damages (or “debt and damages”) aforesaid, as also —£ adjudged to him by the court of our said lord the king now here, according to the form of the statute in such case made and provided, for his damages

Judgment signed, (&c.)

CHAP. XLI. damages, costs, and charges which he hath sustained and expended, by reason of the delay of execution of the judgment aforesaid, on receipt of the writ of error; which said damages, costs, and charges, in the whole amount to ———, and that the said *A. B.* have execution thereof, &c.; and the said *C. D.* in mercy, &c.

(§ 104.)
Rever-al in the
King's Bench,
of a judgment
for the plain-
tiff.

(As in the last, to the beginning of the award and then as follows:)

At which day, before the said court at Westmins'er, came the parties, or their attorneys aforesaid; whereupon as well the record and proceedings aforesaid, and the judgment aforesaid, as the matters aforesaid by the said *C. D.* above for error assigned, being seen and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the said court of our said lord the king now here, that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error: Therefore it is considered, that the judgment aforesaid, for the error aforesaid, and other errors in the record and proceedings aforesaid, be reversed, annulled and altogether held for nothing; and that the said *C. D.* be restored to all things which he hath lost by occasion of the said judgment, &c.

(§ 105.)
The taking of a
judgment for
the defendant
in debt.

(As in the last, to the beginning of the award of restitution, and then as follows.)

— and that the said *A. B.* do recover against the said *C. D.* his debt aforesaid, and also ——— for his damages which he hath sustained, as well by means of the detaining the said debt, as for his costs and charges by him about his suit in this behalf expended, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent, and that he have execution thereof, &c.; and the said *C. D.* in mercy, &c.

(§ 106.)
Entry of pro-
ceedings and
judgment of re-
ver-al, in C. P.
on a writ of er-
ror *ex parte*,
brought by ex-
ecutors, to re-

As yet of — term, (&c.)
England, to wit. Our lord the king sent to his sheriffs of London, his writ close in these words, to wit: *George the third, &c.* (here copy the writ of *exigi facias*, and proceed on a new line as follows:)

At

At which day, before the justices here, come ~~the~~ and CHAP. ~~the~~.
 — sheriffs of London aforesaid, return the writ afore-
 said, to them in form aforesaid directed, in these words, to
 wit. By virtue of the writ of *allocatur exigent*, &c. (here copy
 the sheriff's return to the writ of *allocatur exigent*, and proceed as
 follows) And the said writ is to be sent to his
 sheriffs of London, to be returned to the said writ close in
 these words, to wit. At the hustings, &c. (here copy the
 writ of *allocatur exigent*, and proceed on a new line as fol-
 lows)

At which day, before the justices here, come the said —
 and — sheriffs of London aforesaid, return the said
 last-mentioned writ, to them in form aforesaid directed, in
 these words, to wit. At the hustings, &c. (here copy the she-
 riffs return to the writ of *allocatur exigent*, and proceed on a
 new line as follows)

And now at this day, that I to say, on — in this same
 term, before the justices here, come *E. F.* and *G. H.* execu-
 tors of the last will and testament of the said *C. D.* deceased,
 in their own proper persons, and bring hither into court, a cer-
 tain other writ close of our said lord the king, directed to
 his justices here, which said last-mentioned writ follows in
 these words, that is to say *George* the third, &c. (here copy
 the writ of error, for which see *ante*, p 550 and proceed on
 a new line as follows :)

And upon this the said *E. F.* and *G. H.* executors as
 aforesaid, in their proper persons, come and say, that in the
 record and proceedings aforesaid, and in the pronouncing of
 the said outlawry, there is error, &c. (here copy the assign-
 ment of errors, and plea thereto, for which see *ante*, p
 601. beginning each with a new line, and proceed as fol-
 lows)

And the said *E. F.* and *G. H.* executors as aforesaid, as
 to the said plea of the said *A. B.* by him above pleaded, and
 whereof he hath put himself upon the country, do the like :
 Therefore the sheriffs are commanded, that they cause to come
 here in —, twelve, &c. by whom, &c. and who neither, &c.
 to recognize, &c. because as well, &c. : At which day, before
 the justices here, come as well the said *E. F.* and *G. H.*
 executors as aforesaid, in their proper persons, as the said
A. B.

On the XLI. M. B. his attorney aforesaid; and the sheriffs have not sent the writ of *jurata* and the *jurors* in that behalf directed, nor have they done any thing thereupon: Therefore, as before, the said *E. F.* and his attorney cause to come here in —, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. At which day, before the justices here, comes the said *E. F.* executor as aforesaid, in his proper person; and the said *A. B.* by his attorney aforesaid; and the said *C. D.* does not, nor have the sheriffs sent the writ of *jurata* and the *jurors* in that behalf directed, nor have they done any thing thereupon: And hereupon the said *E. F.* and the justices here to understand and be informed, that after the last continuance of the writ of error aforesaid, and before this day, to wit, on, (&c.) at, (&c.) the said *G. H.* died, and the said *E. F.* then and there survived him; which allegation the said *A. B.* doth not deny, but admits the same to be true: Therefore let no further proceedings be had on the said writ of error, at the suit of the said *G. H.* And in order to try the said issue, above joined between the said *E. F.* surviving executor as aforesaid, and the said *A. B.* the sheriff are commanded, that they cause to come here on —, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.: At which day, the jury between the parties aforesaid, in the plea aforesaid, was respited thereupon between them here, until —, unless Sir *Vicary Gibbs* knight, the king's chief-justice of the Bench here assigned, by form of the statute in such case made and provided, shall first come on — the — day of — at the *Guildhall* of the city of *London*, for default of the jurors, because none of them did appear: And now here at this day, comes the said *E. F.* surviving executor as aforesaid, in his proper person; and the said chief justice, before whom the said issue was tried, hath sent hither his record had before him in these words, to wit: Afterwards, &c. (here copy the *postea*, and proceed as follows.) And hereupon all and singular the premises being seen, and by the justices here fully understood, and mature deliberation being thereupon had, it is considered by the said justices here, that the outlawry aforesaid, in form aforesaid pronounced against the said *C. D.* for the error aforesaid, be revoked, annulled and altogether held for nothing; and that the said *E. F.* surviving

viving executor as aforesaid, and the estate and effects of the said *C. D.* be thereunto committed and discharged; and that the said *E. F.* survive the said *C. D.* as aforesaid, be restored to all things which he, the said *E. F.*, in his life-time, have lost on occasion of the said estate of the said *C. D.*

(To the end, that the said *E. F.* may have his costs)

— to wit. The said *E. F.* by *G. H.* his attorney, against *A. B.* in a writ of error.

— to wit. The said *A. B.* by *E. F.* his attorney, at the suit of the said *C. D.* as aforesaid.

(§ 107)
Affirmance in the Exchequer-chamber, of a judgment for the plaintiff.

Pleas in the Exchequer-chamber, &c. (as before, p. 626. *mutatis mutandis.*)

At which day, come here into court in the said Exchequer-chamber, as well the said *C. D.*, as the said *A. B.* by their attorneys aforesaid; whereupon the premises being considered, and as well the record and proceedings aforesaid, and the judgment aforesaid thereon given, as also the cause for error above assigned, being by the court of our lord the king here diligently examined and fully understood, it appears to the said court of our said lord the king here, that the judgment aforesaid is not in any-wise erroneous or defective, and that in the record and proceedings aforesaid there is not any error: Therefore it is considered, that the judgment aforesaid be in all things affirmed, and stand in its full force strength and effect, the said cause above for error assigned and alleged in any wise notwithstanding: And it is further considered, that the said *A. B.* recover against the said *C. D.* — by the court of our said lord the king here adjudged to the said *A. B.* and with his assent, according to the form of the statute in that case made and provided, for his damages costs and charges which he hath sustained and expended, by reason of the delay of execution of the judgment aforesaid, on pretence of the prosecution of the said writ of error: Whereupon the record and proceedings of the said justices of the Common Bench and the said barons of the Exchequer, before them had in the premises, are remitted by the said justices and barons, before our said lord the king, wheresoever, &c. according to the form of the statute

of

Case. XLI. of the twenty-seventh year of the reign of the late Queen Elizabeth, &c.

(§ 108)
The like of one
judgment for
debt and costs,
and reversal of
another for da-
mages, on stat
8 & 9 W III
c. 11 § 8.

(As in the last, till the words brought down to the day of giving the judgment, which follows)

At which day, whereupon the said Exchequer-chamber, as well as the said person, as the said *A. B.* by his attorney, appeared thereupon as well the record and proceedings aforesaid, and judgments aforesaid in form aforesaid given, and matters aforesaid by the said *C. D.* above for error assigned, being seen and by the court of our said lord the king now here, fully understood, and mature deliberation being thereupon had, it appears to the said court of our said lord the king now here, that the judgment aforesaid, in form aforesaid given, whereby it was considered that the said *A. B.* should recover against the said *C. D.* his said debt, and also — *l.* for his damages which he had sustained, as well by occasion of the detaining the said debt, as for his costs and charges by him about his suit in that behalf expended, and that the said *C. D.* should be in mercy, &c. is not in any-wise erroneous or defective, and that in the record and proceedings aforesaid, as to the said last-mentioned judgment, there is not any error. Therefore it is considered, that the said last-mentioned judgment be in all things affirmed, and stand in its full force strength and effect, the said matters above for error assigned and alledged in any wise notwithstanding. But inasmuch as it further appears to the said court of our said lord the king now here, that there is manifest error in the record and proceedings aforesaid, as to the judgment aforesaid, in form aforesaid given, whereby it was considered that the said *A. B.* should recover against the said *C. D.* his damages aforesaid, to the said sum of — *l.* in form aforesaid found, and also — *l.* for his further costs and charges by him about his suit in that behalf expended, and that the said *C. D.* should be in mercy, &c.; therefore it is considered, that the said last-mentioned judgment, for the error aforesaid, be reversed, annulled and altogether held for nothing, and that the said *C. D.* be restored to all things which he hath lost by occasion of the said last-mentioned judgment, &c. And hereupon the record and proceedings of the

the said justices of the Common Bench and the said barons CHAP. VII.
of the Exchequer, that the same errors, and the premises, are re-
mitted, &c. (110)

A. B. } in error upon (§ 109)
and } not in error, because, why it Rule *nm*, for
C. D. } showed the cause of the errors, computing in-
in error. } to compute the amount of the inter- terest, on an
est in error. } amount of the inter- affirmance in
est upon the fine, at the rate of 5*l.* per cent. the Exchequer-
from the time of final judgment, until the cham-
affirmance of the said judgment, and that such
interest may be added to the damages, which such final
judgment was entered upon. Upon the motion of Mr. —.

Afterwards, to wit, on — the — day of — in the — (§ 110)
year of the reign of our sovereign lord *George* the third, king Entry of pro-
of the united kingdom of *Great Britain* and *Ireland*, &c. a ceedings and
transcript of the record and proceedings aforesaid, between affirmance in
the parties aforesaid, of the plea aforesaid, with all things the Exchequer-
concerning the same, by means of a certain writ of our lord chamber, and
the king for correcting errors, prosecuted by the said *C. D.* re *ultim* to the
against the said *A. B.* of and upon the premises, by the King's Bench.
the court of our said lord the king before the king himself here,
was transmitted before the justices of our said lord the king
of his court of Common Bench, and the barons of the Ex-
chequer of our said lord the king of the degree of the chief,
in the Exchequer-chamber, according to the form of the sta-
tute made in the twenty-seventh year of the reign of the late
Elizabeth, late Queen of *England*, &c. : And the said *C. D.*
appearing in the Exchequer-chamber aforesaid, assigned cer-
tain matters for error in the record and proceedings afore-
said, and in giving the judgment aforesaid, for reversing the
said judgment; to which the said *A. B.* also appearing in
the said court of Exchequer chamber, pleaded that there was
no error either in the record and proceedings aforesaid, or in
giving the judgment aforesaid: And afterwards, to wit, on
— the — day of — in the — year of the reign of
our said lord the king, as well the record and proceedings
aforesaid, and the judgment aforesaid given in form afore-
said, as also the matters by the said *C. D.* for error assigned,
being

CHAP. XLL being by the court of Exchequer-chamber diligently examined, and fully understood, it appeared to the said court of Exchequer-chamber, that there was nothing either in the record and proceedings aforesaid, or in the judgment aforesaid : Therefore the said court considered by the said court of Exchequer-chamber, that the judgment aforesaid should be affirmed, and should stand in its full force strength and effect, notwithstanding the error assigned, and notwithstanding : And it was then and there considered by the same court, that the said *A. B.* should recover against the said *C. D.* — *l.* by the said court, there was adjudged to the said *A. B.* at his request, according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of execution of the judgment aforesaid, on pretence of prosecuting the said writ of error : And thereupon as well the record aforesaid, as the proceedings of the justices of the Common Bench and barons of the Exchequer aforesaid, before them had in the premises, were by the said justices and barons remitted into the court of our said lord the king before the king himself, according to the form of the statute in such case made and provided, and now remain in the said court of our said lord the king before the king himself, &c.

(§ 111.)
Entry of satisfaction.

Afterwards, to wit, on — next after — in the — year of the reign of our said lord the now king, before the king himself at *Westminster*, came the said *A. B.* by his attorney aforesaid, and acknowledged that he had been satisfied by the said *C. D.* for the damages, costs and charges aforesaid : Therefore let the said *C. D.* be quit of the said damages, costs and charges, &c.

(§ 112.)
Petition for a hearing, in the House of Lords.

To the right honourable the lords spiritual and temporal, in parliament assembled.

The humble petition of *A. B.* defendant in a writ of error in parliament, wherein *C. D.* is plaintiff ;

Sheweth,

That your petitioner obtained a judgment after verdict, in the court of King's Bench, against the said *C. D.* in an action of — of

of debt for — *l.* which in — term last, on a writ of error CHANCERY.
brought by the said *G.* in the chequer-chamber, was
unanimously affirmed by the judges of the court of Com-
mon Pleas, and the said *G.* suer; That the said
C. D. hath been and is now a member in par-
liament, in which he hath defended himself by
a different advice than that given in the said action,
with an intent to delay the said action, and to advise, to delay
your petitioner, in the said action, in an unusual manner,
from the recovery of the said debt.

That the plaintiff in error hath assigned his
errors; and your petitioner doth join in error.

Your petitioner therefore most humbly prays your lordships,
to appoint such a day for taking the premises into your con-
sideration, and arguing the said errors, as to your lordships
great wisdom shall seem meet.

And your petitioner shall ever pray, &c.

At which day, before the sure court of parliament at *West-*
minster, come as well the said *C. D.* as the said *A. B.* in their (§ 115.)
Affirmance in
the House of
Lords, of a
judgment in
the King's
Bench, affirm-
ed in the Ex-
chequer-cham-
ber.
proper persons; whereupon all and singular the premises
being seen, and by the court of parliament aforesaid now
here fully understood, and as well the record and proceed-
ings aforesaid, and the judgment thereon given, as the said
causes and matters by the said *C. D.* above for error assigned,
being diligently examined and inspected, and mature delibe-
ration being thereupon had, it seems to the court of parlia-
ment aforesaid now here, that there is no error either in the
record and proceedings aforesaid, or in the giving of the
judgment aforesaid, or in the affirmance of the same judg-
ment, and that the said record is in no-wise vicious or defec-
tive: Therefore it is considered by the same court of parlia-
ment, that the judgment aforesaid, and also the affirmance
of the same judgment, be in all things affirmed, and stand
in their full force and effect, the said causes and matters by
the said *C. D.* above for error assigned in any-wise notwith-
standing: And it is further considered by the same court of
parliament now here, that the said *A. B.* do recover against
the said *C. D.* — *l.* by the same court of parliament ad-
judged to the said *A. B.* and with his assent, according to the
form of the statute in such case made and provided, for his

CHAP. XLI. damages costs and charges which he hath sustained and expended, by reason of the delay of the execution of the judgment aforesaid, on pretence of prosecuting the said writ of error: And thereupon the record aforesaid, and also the proceedings aforesaid, in the said court of parliament had in the premises, are remitted by the said parliament, to the court of our said lord the king before the king himself, wheresoever, &c.

Chr. Parl.

(§ 114.)
Entry of proceedings and affirmance in the House of Lords, and remission to the King's Bench

Afterwards, to wit, on the — day of — in the — year of the reign of our said lord the now king, the said lord the king sent to his right trusty and well-beloved *Edward Lord Ellenborough*, the chief-justice of the same lord the king, assigned to hold pleas in the court of our said lord the king before the king himself, his writ close in these words, to wit *George the Third*, &c. (here copy the writ of error, and proceed as follows). By virtue of which said writ, the said chief-justice with his own proper hands brought the record and proceedings in the plaint aforesaid, with all things concerning the same, to our said lord the king in this present parliament, in a certain record to the said writ annexed, according to the exigency of that writ.

Afterwards to wit, on the — day of — in the — year of the reign of our said lord the king, before our said lord the king and the peers of this realm, in this present parliament at *Westminster* in the county of *Middlesex* assembled, comes the said *C. D.* in his proper person, and immediately says that in the record and proceedings aforesaid, and also in the judgment aforesaid thereupon given in the said court of Exchequer-chamber of our said lord the king, there is manifest error, &c. (stating the assignment of errors, and joinder): But because the court of our said lord the king before the king himself in his parliament, are not yet advised what judgment to give of and upon the premises, a day is therefore given to the parties aforesaid, before our said lord the king in his parliament, until — the — day of — next ensuing, wheresoever, &c. to hear their judgment of and upon the premises, because the court of our said lord the king in his parliament here, are not yet advised thereof, &c. At which
day,

day, before the same court of parliament at *Westminster* CHAP. XLII. aforesaid, come as well the said *C. D.* as the said *A. B.*: whereupon all attending the premises being seen, &c. (as in the last precedent, &c.)

(After the entry of the writ of error in the last, proceed as follows)

(§ 115.)
The like, after
non pros for
not assigning
errors.

Afterwards, to wit, the — day of — in the — year of the reign of our said lord the king, before our said lord the king and the peers of this realm, in the said parliament at *Westminster* in the county of *Middlesex* assembled, come as well the said *A. B.* as the said *C. D.* in their proper persons; and the said *A. B.* prays that the said *C. D.* may assign error or errors in the record and proceedings aforesaid; And thereupon the said *C. D.* hath until the — day of — in the said — year of the reign of our said lord the king, where-soever, (&c.) given him by the said court of parliament, to assign error or errors in the record and proceedings aforesaid; the same day was given to the said *A. B.*: At which day, before our said lord the king in parliament at *Westminster* aforesaid, the said *A. B.* came in his proper person; but the said *C. D.* although solemnly called, came not, nor did he further prosecute his said writ of error: Therefore it is considered by the same court of parliament, that the said *C. D.* be in mercy, &c. because he hath not prosecuted his said writ for correcting error with effect: And it is further considered by the same court of parliament, that the said *A. B.* do recover against the said *C. D.* — *l.* adjudged to the said *A. B.* by the same court of parliament, for the damages costs and charges which he hath sustained, by reason of the delay of execution of the judgment aforesaid, for that the said *C. D.* hath not further prosecuted his said writ of error: And thereupon the said record, and also the process had in the said court of parliament, by the same court of parliament were remitted to the said court of our said lord the king before the king himself, wheresoever, &c. to the end execution might be done thereupon; and the same now remains in the said court, to wit, at *Westminster* in the county of *Middlesex*, &c.

CHAP. XLI. *George the Third, (&c.) To the sheriff of — greeting :*

(§ 116.)
Fieri facias,
after non-pros
or affirmance
in the King's
Bench.

We command you, that of the goods and chattels of *C. D.* late of — in your bailiwick, you cause to be made — *l.* (or “a certain debt of — *l.*”) which *A. B.* lately in our court before Sir *Vicary Gibbs* knight and his companions, then our justices of the bench at *Westminster*, recovered against the said *C. D.* (&c.); whereof the said *C. D.* is convicted, as by the inspection of the records and proceedings thereof, which we lately caused to be brought into our court before us at *Westminster*, for certain supposed causes of error therein, and which are now still remaining, appears to us of record; and also — *l.* which in our said court before us at *Westminster* aforesaid, were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of execution of the judgment aforesaid, on pretence of prosecuting our writ of error brought thereupon by the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said writ of error with effect; (or, on an affirmance, “the said judgment being in our said court before us, in all things affirmed;”) whereof the said *C. D.* is also convicted, as appears to us of record; and have the said monies before us, on — wheresoever we shall then be in *England*, to be rendered to the said *A. B.* for his damages costs and charges aforesaid; and have there this writ. Witness *Edward Lord Ellenborough*, (&c.)

(§ 117)
The like, for
the damages
and costs, in
error only.

George the Third, (&c.) To the sheriff of — greeting :
We command you, that of the goods and chattels of *C. D.* late of — in your bailiwick, you cause to be made — *l.* which lately in our court before us, were adjudged to *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of the execution of a certain judgment, obtained by the said *A. B.* against the said *C. D.* in our court before Sir *Vicary Gibbs* knight and his companions, our justices of the bench at *Westminster*, on pretence of prosecuting our writ of error brought by the said *C. D.* against the said *A. B.* of and upon the said judgment, because the said *C. D.* did not prosecute the
“ said

said writ of error with effect; (or, "the said judgment being CHAP. XLI.
in our said court before us, in all things affirmed,") whereof
the said *C. D.* is convicted, as by the record and proceedings
thereof, which for certain supposed causes of error therein,
we lately caused to be remitted into our said court before us,
and which are now to us of record;
and have the said money, &c. (as in the said)

George the Third, (&c.) — greeting: (§ 118)
We command you, that for the goods and chattels of *C. D.* The like, after
a non-pros or
affirmance in
the Exchequer
chamber.
in your bailiwick, you cause to be made — *l.* (or "a certain
debt of — *l.*") which *A. B.* lately in our court before us at
Westminster, recovered against the said *C. D.* (&c.); whereof
the said *C. D.* is convicted, as appears to us of record; and
also — *l.* which in our court of Exchequer-chamber at
Westminster, before our justices of the bench and the barons
of our Exchequer of the degree of the conf, were adjudged to
the said *A. B.* according to the form of the statute in such case
made and provided, for his damages costs and charges which
he had sustained and expended, on occasion of the delay of
execution of the judgment aforesaid, on pretence of pro-
secuting our writ of error, brought thereupon by the said *C. D.*
against the said *A. B.* because the said *C. D.* did not prose-
cute the said writ of error with effect; (or, "the said judgment
being in our said court of Exchequer chamber, in all things
affirmed,") whereof the said *C. D.* is also convicted, as by the
record and proceedings of our said justices and barons, before
them had in the premises, and by them remitted into and now
remaining in our said court before us at *Westminster* afore-
said, also appears to us of record; and have the said monies
before us at *Westminster*, on — next after —, to be
rendered to the said *A. B.* for his damages costs and charges
aforesaid; and have there then this writ. Witness *Edward*
Lord Ellenborough, (&c.)

George the Third, (&c.) To the sheriff of — greeting: (§ 119)
Whereas *A. B.* our debtor in our court, before the barons of The like, after
non-pros, on
error from the
Exchequer of
Pleas.
our Exchequer at *Westminster*, heretofore, (that is to say,) in the
term of — last past, (or "in the — year of our reign,")
by the consideration and judgment of our said court, recovered
against *C. D.* — *l.* for his damages, (&c.); whereof the said
C. D.

CHAP. XLI. *C. D.* is convicted, as by inspecting the rolls of our said Exchequer, appears to us: And whereas the record and proceedings, of the said plaint were afterwards had and removed, by our writ of error, on the prosecution of the said *C. D.* according to the form of the statute in such case made and provided, into the council-chamber, near our said Exchequer, before our lord Chancellor of Great Britain, there being then no treasurer of our said Exchequer; and the said lord Chancellor, of Great Britain, there being then no treasurer of our said Exchequer; having taken to himself the chief-justices of each bench, and called before him the barons of our said court of Exchequer, and the reasons of the said barons being heard, thereupon considered, that the said *C. D.* should be in mercy, for that he the said *C. D.* had not prosecuted his said writ of error, and that the said *C. D.* should recover against the said *A. B.* —/ for his damages costs and charges which he had sustained, by reason of the delay of execution of the said judgment, as by the record and proceedings thereof, remitted into our said Exchequer, also appears to us: Therefore we command you, that you omit not by reason of any liberty of your county, but that you enter the same, and cause to be made of the goods and chattels of the said *C. D.* in your bailiwick, as well the said —/ for the damages aforesaid, by virtue of the said judgment in the said court of Exchequer recovered by the said *A. B.* in form aforesaid, as the said —/ adjudged by the said lord Chancellor, there being then no treasurer of our said Exchequer, in the said council-chamber, in form aforesaid; and have the said monies before the barons of our said Exchequer at Westminster, on — next coming, to be then and there paid to the said *A. B.* or his attorney in this behalf; and have there this writ. Witness Sir Alexander Thomson knight, (&c.)

(§ 120)
The like, after
an action on
the judgment,
and a writ of
error thereon

George the Third, (&c.) To the sheriff of — greeting.
We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made —/ (or “a certain debt of —/”) which *A. B.* lately in our court before us at Westminster, recovered against the said *C. D.* (&c.), whereof the said *C. D.* is convicted, as appears to us of record; and also

also — *l.* which in our court of Exchequer-chamber at *Westminster*, before our justices of the bench and the barons of our Exchequer of the degree of the conf, were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages, costs and charges which he had sustained and expended, on occasion of the delay of the execution of the judgment aforesaid, on pretence of prosecuting our writ of error brought thereupon by the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said writ of error with effect; (or, “the said judgment being in our said court of Exchequer-chamber, in all things affirmed;”) whereof the said *C. D.* is also convicted, as by the record and proceedings of our said justices and barons, before them had in the premises, and by them remitted into and now remaining in our said court before us at *Westminster* aforesaid, also appears to us of record; and also — *l.* which the said *A. B.* lately in our said court before us at *Westminster* aforesaid, recovered against the said *C. D.* for his damages which he had sustained, as well by reason of the detention of the said first-mentioned damages, (or “debt and damages,”) costs and charges, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is also convicted, as appears to us of record; and also — *l.* which in our said court of Exchequer-chamber, before our justices and barons aforesaid, were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages, costs and charges which he had sustained and expended, on occasion of the delay of the execution of the said last-mentioned judgment, on pretence of prosecuting our writ of error brought thereupon by the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said last-mentioned writ of error with effect, (or “the said last-mentioned judgment being in our said court of Exchequer-chamber, in all things affirmed;”) whereof the said *C. D.* is also convicted, as by the record and proceedings of our said justices and barons, before them had in the premises last aforesaid, and by them remitted into and now remaining in our said court before us at *Westminster* aforesaid, also appears to us of record; and have the said monies, &c. (as before.)

George

CHAP. XLI

(§ 121.)
The like for
the damages
and costs in
error only.

George the Third, (&c.) To the sheriff of — greeting :
We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l* which lately in our court of Exchequer-chamber at *Westminster*, before our justices of the bench and the barons of our Exchequer of the degree of the coin, were adjudged to *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of the execution of a certain judgment obtained by the said *A. B.* against the said *C. D.* in our court before us, on pretence of prosecuting our writ of error brought thereupon by the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said writ of error with effect, (or, “the said judgment being in our said court of Exchequer chamber, in all things affirmed;”) whereof the said *C. D.* is convicted, as by the record and proceedings of our said justices and barons, before them had in the premises, and by them remitted into and now remaining in our said court before us at *Westminster* aforesaid, appears to us of record; and have the said monies, &c. (as before)

(§ 122.)
The like, after
a motion for
affidavit in
the House of
Lords.

George the Third, (&c.) To the sheriff of — greeting .
We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l* (or, “a certain debt of — *l*”) which *A. B.* lately in our court before us at *Westminster*, recovered against the said *C. D.* (&c.), whereof the said *C. D.* is convicted, as appears to us of record, and also — *l* which in our court of parliament were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of execution of the judgment aforesaid, on pretence of prosecuting our writ of error brought thereupon by the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said writ of error with effect; (or, “the said judgment being in our said court of parliament, in all things affirmed;”) whereof the said *C. D.* is also convicted, as by the inspection of the record and proceedings thereof, remitted from our said court of parliament into our court before us,
also

also appears to us of record; and have the said monies, &c. CHAP. XLI.
(as before.)

George the Third, (&c.) To the sheriff of — greeting: (§ 123.)
We command you, that you take *C. D.* if he shall be found
in your bailwick, and him safely keep, so that you may have *C. D.* after
his body before us, on — wheresoever we shall then be in a non-pros or
England, to satisfy *A. B.* — *l.* for, “a certain debt of — *l.*” affirmation in
which the said *A. B.* lately in our court before Sir Vicary the King's
Gibbs knight and his companions, then our justices of the Bench.
the bench at *Westminster*, recovered against the said *C. D.* (&c.)
whereof the said *C. D.* is convicted, as by the inspection of
the record and proceedings thereof, which we lately caused
to be brought into our court before us at *Westminster*, for
certain supposed causes of error therein, and which are now
there remaining, appears to us of record; and also — *l.*
which in our said court before us at *Westminster*, were adjudg-
ed to the said *A. B.* according to the form of the statute in
such case made and provided, for his damages costs and
charges which he had sustained and expended, on occasion of
the delay of execution of the judgment aforesaid, on pretence
of prosecuting our writ of error brought thereupon by the said
C. D. against the said *A. B.* because the said *C. D.* did not
prosecute the said writ of error with effect; (or, “the said judg-
ment being in our said court before us, in all things affirmed;”)
whereof the said *C. D.* is also convicted, as appears to us of
record; and have there this writ. Witness, (&c.)

The different writs of *capias ad satisfaciendum*, after a non
pros or affirmance in the Exchequer-chamber, or House of
Lords, may be easily collected from the above form, and the
foregoing writs of *perifacias* in similar cases.

George the Third, (&c.) To the sheriff of — greeting: (§ 124.)
Whereas *A. B.* lately, to wit, in — term, in the — year
of our reign, in our court before Sir Vicary Gibbs knight and
his companions, then our justices of the bench at *Westminster*,
by our writ and by the judgment of the same court, recovered
against
Scire facias
quare restitutio-
nem non, after
a judgment re-
versed in the
King's Bench.

CHAP. XLI. against *C. D.* late of, (&c.) — *l.* which in our ~~same~~ court were adjudged to the said *A. B.* for his damages, (&c.); whereof the said *C. D.* was convicted, as by the inspection of the record and proceedings thereof, which for certain causes of error we caused to be brought into our court before us at *Westminster*, appears to us of record: And for divers errors found in the record and proceedings aforesaid, and also in the giving of the judgment aforesaid, we have reversed and totally annulled the said judgment; and we have further considered in our said court before us at *Westminster* aforesaid, that the said *C. D.* be restored to all things which he hath lost on occasion of the judgment aforesaid: And now on the behalf of the said *C. D.* in our said court before us we have been informed, that the said *A. B.* hath had his execution of the damages aforesaid, on pectence of the judgment aforesaid, given in our court of the Bench aforesaid, and is yet possessed thereof, to wit, at —; whereupon the said *C. D.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us, on — wheresoever we shall then be in *England*, to shew if he hath or knoweth of any thing to say for himself, why the said *C. D.* ought not to have restitution of the damages aforesaid, according to the force form and effect of the judgment aforesaid, given in our said court before us, and further to do and receive, &c. (as before, p. 529.)

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(§ 1^o)
The like writ
a judgment re-
versed in the
Exchequer-
chamber.

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* — *l.* for his damages, (&c.) whereof the said *C. D.* is convicted, as appears to us of record; and afterwards the said *C. D.* brought our writ for correcting error of and upon the record and proceedings aforesaid, against the said *A. B.* returnable before our justices of the Common Bench and the barons of our Exchequer, in our Exchequer-chamber: And thereupon afterwards, to wit, on the — day of — in the — year of our reign, before our justices of the Common Bench and the barons of our Exchequer

quer aforesaid, in our said Exchequer-chamber, it was con-
sidered that the judgment aforesaid, for divers errors in the
record and proceedings aforesaid, should be reversed annulled
and altogether held for nothing, and that the said *C. D.*
should be restored to all things which he had lost on occasion
of that judgment, as by the inspection of the record and
proceedings thereof, now remaining in our said court before
us, also appears to us of record: And now on the behalf of
the said *C. D.* in our said court before us, we have been in-
formed, that the said *A. B.* hath had his execution of the da-
mages aforesaid, in form aforesaid recovered, and is yet pos-
sessed thereof, whereupon the said *C. D.* hath humbly
besought us to provide him a proper remedy in this behalf:
And we being willing that what is just in this behalf should
be done, command you, that by honest and lawful men of
your bailiwick, you make known to the said *A. B.* that he
be before us at *Westminster*, on — next after —, to shew
if he hath or knoweth of any thing to say for himself, why the
said *C. D.* ought not to have restitution of the damages
aforesaid, if it shall seem expedient for him so to do, and
further to do and receive, &c. (as before p. 523)

George the Third, (&c.) To the sheriff of — greeting (5 100)
Whereas *A. B.* lately, that is to say, in — term in the —
year of our reign, in our court before Sir *Jacoby Gibbs* knight
and his companions, then our justices of the bench at *West-*
minster, by our writ and by the judgment of the same court,
recovered against *C. D.* late of, (&c.) — for his damages,
(&c.), whereof the said *C. D.* is convicted, as by the record
and proceedings thereof, which for certain causes of error we
lately caused to be brought into our court before us, appears
to us of record. And by reason of divers errors in the said
record and proceedings, and also in giving the judgment
aforesaid, we have reversed and totally annulled the same, and
we have further considered in our said court before us, that
the said *C. D.* be restored to all things which he hath lost on
occasion of the judgment aforesaid. And whereas the said
A. B. on pretence of the said former judgment, hath had his
execution of the damages aforesaid, and is yet possessed
thereof, as we have been informed. Therefore we command
you, that if it can be made appear to you, that the said *A. B.*
hath

CHAP. XLI. hath had his execution of the damages aforesaid, by virtue of the judgment aforesaid, then without delay you cause the said *C. D.* to have full restitution of the said — *l.*: and if you cannot cause him to have restitution thereof, then that of the goods and chattels of the said *A. B.* in your bailiwick, you cause to be made the said — *l.* and cause that money to be delivered without delay to the said *C. D.* (or, “that you take the said *A. B.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us, on — wheresoever, &c. to restore and make satisfaction to the said *C. D.* of the said — *l.*”) : And in what manner you shall execute this our writ, make appear to us, on — wheresoever, (&c.) ; and have there this writ. Witness, (&c.)

(§ 127)
The like, after
a judgment
reversed in the
Exchequer-
chamber.

George the Third, (&c.) To the sherrif of — greeting :
Whercas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* — *l.* for his damages, (&c.) whereof the said *C. D.* was convicted, as appears to us of record : And afterwards, to wit, on the — day of — in the — year of your reign, the transcript of the record and proceedings aforesaid, with all things concerning the same, by virtue of our certain writ for correcting error, prosecuted by the said *C. D.* in the premises, was transmitted from our said court before us, before our justices of the Common Bench and the barons of our Exchequer of the degree of the coif, in the Exchequer-chamber, according to the form of the statute made in the parliament of the lady *Elizabeth* late Queen of *England*, holden at *Westminster*, on the 23d day of *November* in the twenty seventh year of her reign : And afterwards, to wit, on the — day of — in the — year of our reign aforesaid, before our said justices of the Common Bench and barons of our Exchequer, in the Exchequer-chamber aforesaid, it was considered that the judgment aforesaid, for divers errors in the record and proceedings aforesaid, should be reversed annulled, and altogether held for nothing, and that the said *C. D.* should be restored to all things which he had lost by occasion of the judgment aforesaid : And afterwards the record aforesaid, with the proceedings thereupon had in the premises, before the said justices and barons of the Exchequer aforesaid, the same justices and barons have remitted before

us

us at *Westminster* aforesaid, according to the form of the CHAP. XLI. statute aforesaid, and they now remain in our same court before us: And now on the behalf of the said *C. D.* in our said court before us we have been informed, that the said *A. B.* on pretence of the said former judgment, hath had his execution of the damages aforesaid, and is yet possessed thereof: Therefore we command you, &c. as in the last, making the writ returnable on a day certain):

George the Third, (&c.) To the sheriff of — greet-
ing: If *C. D.* shall give you security that his suit shall be
prosecuted, then in your full county cause the plaint to be
recorded, which was in the same county, without our writ,
between *A. B.* and the said *C. D.* of a certain trespass on the
case, done to the said *A. B.* by the said *C. D.* as it is said,
wherein the said *C. D.* complaineth that false judgment hath
been given against him in the said county; and that you have
the said record before us, on — wheresoever we shall then
be in *England*, (or in C. P. “before our justices at *West-*
minster, on —,”) under your seal, and the seals of four
lawful knights of the same county, of such as shall be present
at the said recording; and summon by good summoners the
said *A. B.* that he be then there, to hear the said record; and
have you there the summoners, the names of the said four
knights, and this writ. Witness ourself at *Westminster*, the
— day of — in the — year of our reign.

(§ 129)
Writ of false
judgment.

By the lord chancellor of *Great Britain*, at the instance of
the defendant,

In the Common Pleas.

— term, (&c.)

(§ 121)
Rule to return
same, in C. P.

Upon reading the affidavit of *E. F.* it is ordered, that the
defendant, within six days after notice of this rule, to be given
to his attorney or agent, do peremptorily file of record in this
court, the writ of false judgment, issued between the said
parties, directed to the sheriff of —; or in default thereof,
that a writ of *procedendo* be issued forthwith to the said de-
fendant,

By

CHAP. XLI. By virtue of this writ to me directed, I have in my full county, held at — the — day of — in the — year of the reign of our sovereign lord *George* the third, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, caused the plaint to be recorded, whereof mention is within made; and I have the record of the same plaint before our said lord the king, on the day within contained, under my seal, and the seals of four lawful knights of my said county, of such as were present at the said recording. And by — and — I have summoned the within-named *A B* that he be before our said lord the king, (or, in C P. “before the justices of our said lord the king,”) on the day aforesaid, to hear the said record, as by this writ I am commanded, which said record is contained in a schedule to this writ annexed.

~ A sheriff

(§ 131)
Proce^dings in
the county
court, in re-
sponse to the
plaint to final
judgment after
verdict.

— to wit. The — county-court of *I. K* esquire, sheriff of the county aforesaid, held at — in and for the said county, and within the jurisdiction of the same court, according to the custom of the said court, from time whereof the memory of man is not to the contrary there used and approved of in the same court, on — the — day of — in the — year of the reign of our sovereign lord *George* the third, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—, before *I M* (Sc.) freeholders within the said county, and suitors of the same court. Be it remembered, that at this court comes here *A B* in his proper person, and now in the same court here, levies his plaint against *C D* of a plea of trespass on the case to the damage of the said *A. B.* of thirty-nine shillings and eleven-pence, and in the same court here finds pledges to prosecute his said plaint, to wit, *John Doe* and *Richard Roe*, and now in the same court here, prays the process of the same court here to be made to him thereon against the said *C D.* in the plea of his said plaint, and it is granted to him, &c. And upon this it is in and by the same court here commanded to —, one of the bailiffs errand of the said *I K* sheriff of the said county, and minister of the same court here, that he summon by good summoners, the said *C. D.* within the jurisdiction of the same court,

court, that he be and appear at the next court of the county CHAP. XLI. aforesaid, to be holden at — aforesaid, in and for the county aforesaid, and within the jurisdiction of the same court, on — the — day of — next ensuing, to answer to the said *A. B.* in the plea of the said plaint; and what the said minister shall do thereon, that he certify to the same next court; the same day is in and by the same court here given to the said *A. B.* to be there, &c. At which same next court, to wit, the — county-court of the said *J. K.* esquire, sheriff of the county aforesaid, held at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of — in the said — year of the reign of our said lord the now king, before *N. O.* (&c.) freeholders within the said county, and suitors of the same court, comes the said *A. B.* in his proper person, and offers himself against the said *C. D.* in the plea of his said plaint; and the said — bailiff and minister of the same court, now returns to the same court here, the aforesaid precept to him in form aforesaid directed, in all things served and executed, to wit, that he by virtue of that precept, to him in form aforesaid directed, by — and — good summoners, hath summoned the said *C. D.* within the jurisdiction of the said court, that he be and appear at the same next court, to answer the said *A. B.* in the plea of the said plaint, as he was commanded: Whereupon the said *C. D.* being solemnly called, comes into this same court here, in his proper person; and thereupon the said *A. B.* in this same court, puts in his place *E. F.* his attorney, against the said *C. D.* in the plea of the said plaint; and the said *C. D.* in this same court here puts in his place *G. H.* his attorney, at the suit of the said *A. B.* in the plea of the said plaint; and thereupon the said *A. B.* prays a day to declare against the said *C. D.* in the plea of the said plaint here, until the next court of the county aforesaid, to be holden at — aforesaid, in and for the county aforesaid, and within the jurisdiction of the same court, on — the — day of — now next ensuing; and he hath it, &c.; the same day is given to the said *C. D.* to be there, &c. At which same next court, to wit, the — county-court of the said *J. K.* esquire, sheriff of the county aforesaid, held at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on the aforesaid — the — day of —

in

CHAP. XLI. in the — year of the reign of our said lord the now king, before *P. Q.* (&c.) freeholders within the said county, and suitors of the same court, come, as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and hereupon the said *A. B.* prays a further day to declare against the said *C. D.* in the plea of the said plaint here, until the next court of the county aforesaid, to be holden at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of — now next ensuing; and he hath it, &c., the same day is given to the said *C. D.* to be there, &c. At which same next court, to wit, the — county court of the said *I. K.* esquire, sheriff of the said county, held at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on the aforesaid — the — day of — in the — year of the reign of our said lord the now king, before *R. S.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid: And thereupon the said *A. B.* by his said attorney, now declares here in this same court against the said *C. D.* in the plea of the said plaint, in manner and form following, that is to say: In the county-court *A. B.* complains against *C. D.* of a plea of trespass on the case, for that whereas, &c. (here copy the declaration) And thereupon the said *C. D.* prays leave to impair thereto here, until the next court of the county aforesaid, to be holden in and for the same county here, to wit, at — aforesaid in the county aforesaid, and within the jurisdiction of the same court, on — the — day of — now next ensuing; and he hath it, &c., the same day is given to the said *A. B.* to be there, &c. At which same next court, to wit, the — county-court of the said *I. K.* esquire, sheriff of the county aforesaid, held at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on the aforesaid — the — day of — in the — year of the reign of our said lord the now king, before *T. U.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and thereupon the said *C. D.* by his attorney aforesaid, defends the wrong and injury, when, &c. and saith that he did not undertake or promise, in manner and form

form as the said *A. B.* hath above thereof complained against *C. D.* him; and of this he the said *C. D.* puts himself upon the country, &c. And hereupon the said *A. B.* prays leave to reply thereto here, until the next court of the county aforesaid, to be holden in and for the same county here, to wit at — aforesaid in the said county, and within the jurisdiction of the same court, on — the — day of — now next ensuing; and he hath it, &c.; the same day is given to the said *C. D.* to be there, &c. At which same next court, to wit, the — county-court of the said *I. K.* esquire, sheriff of the county aforesaid, held at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on the aforesaid — the — day of — in the — year of the reign our said lord the now king, before *V. W.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and thereupon the said *A. B.* doth likewise put himself upon the country: Therefore to try the issue above joined between the parties aforesaid, it is commanded by the court here, to — and — bailiffs and ministers of the aforesaid court, that they cause to come at the next court, to be holden at — aforesaid, in and for the county aforesaid, and within the jurisdiction of the same court, on — the — day of — now next ensuing, twelve honest and lawful men of the same county, and within the jurisdiction of the same court, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given in and by the said court here to the parties aforesaid, to be there, &c. At which same next court, to wit, at the — county-court of the said *I. K.* esquire, sheriff of the county aforesaid, held at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on the aforesaid — the — day of — in the — year of the reign of our said lord the now king, before *X. Y.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and the said — and — bailiffs and ministers of the aforesaid court, to whom, &c. have not returned the aforesaid precept, nor have they or either of them done any thing thereon: Therefore, as before, it is commanded by the court here, to the aforesaid — and —, bailiffs and ministers of the same court, that they cause

CHAP. XLI. to come at the next court to be holden at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of — now next ensuing, twelve honest and lawful men of the said county, and within the jurisdiction of the same court, by whom, &c. and who neither, &c. recognize, &c. because as well, &c.; the same day is given in and by the said court here to the parties aforesaid, to be there, &c. Before which said next court, the aforesaid *I. K.* was in due manner removed from his said office of sheriff of the county aforesaid, and *Z. A.* esquire was duly chosen, constituted and appointed sheriff of the said county, in the lieu and stead of the said *I. K.* At which same next court, to wit, at the first county-court of the said *Z. A.* esquire, sheriff of the county aforesaid, held at — aforesaid in and for the said county, and within the jurisdiction of the same court, on the aforesaid — the — day of — in the — year of the reign of our said lord the now king, before *B. C.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and the said — and —, bailiffs and ministers of the court aforesaid, have sent here the aforesaid precept to them in form aforesaid directed, in all things served and executed, together with a panel of the names of twelve honest and lawful men of the county aforesaid, and within the jurisdiction of the said court, and who are in nowise of kin either to the said *A. B.* or to the said *C. D.* impanelled to recognize in form aforesaid, between the parties aforesaid: And those jurors, in form aforesaid so impanelled, namely, *D. E.* (&c.) being solemnly called in the same court appear, who being chosen tried and sworn by the same court here, to speak the truth of the premises above contained, and put in issue between the said parties, upon their oath say, that the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath above thereof complained against him; and they assess the damages of the said *A. B.* by reason of the premises aforesaid, over and above his costs and charges by him laid out about his suit in this behalf, to —s. and for those costs and charges to — pence: And thereupon the said *A. B.* prays the judgment of the court here, of and upon the premises aforesaid: But because the court now here hath not yet determined what judgment to give

give in the premises, a day is therefore given by this court, **CHAP. XLL** as well to the said *A. B.* as to the said *C. D.* until the next court of the county aforesaid, to be holden at — aforesaid, in and for the said county, and within the jurisdiction of the court, on — the — day — next ensuing, for hearing the judgment of the said court thereupon, for that this court hath not yet thereto determined, &c. At which same next court, to wit, at the second county-court of the said *Z. A.* sheriff of the county aforesaid, held at — aforesaid, in and for the county aforesaid, and within the jurisdiction of the same court, on the aforesaid — the — day of — in the said — year of the reign of our said lord the now king, before *F. G.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attorneys aforesaid; and thereupon all and singular the premises aforesaid being seen and inspected, and by the court here fully understood, and mature deliberation being thereupon had, it is considered in and by the same court here, that the said *A. B.* do recover against the said *C. D.* his damages costs and charges, in form aforesaid assessed by the said jury, to — and also — *l.* for his costs and charges aforesaid, by the said court here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to — *l.*; and the said *C. D.* in mercy, &c.

Z. A. sheriff.

In the Common Pleas.

<p><i>C. D.</i> v. <i>A. B.</i> upon a writ of false-judgment.</p>	}	<p>Unless the defendant, within four days next after notice of this rule, to him or his attorney or agent given, shall assign errors in this cause, let there be a writ of execution upon the judgment in the county-court of —.</p>	<p>— term, &c.</p> <p>(§ 132.) Rule to assign errors, upon a writ of false-judgment, in C. P.</p>
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By the Court.

Side bar, at the plaintiff's instance.

And hereupon the said *C. D.* says that the record aforesaid is vicious, and in many respects defective, and that false-judgment is given against him in and upon the plaint aforesaid.

(§ 133.)
Assignment of false-judgment.

CHAP. XLI. said, in this, to wit, that the consideration of and for the supposed promises and undertakings in the said declaration mentioned, is not stated or alledged, nor does the same appear in or by the said declaration, to have arisen or happened within the jurisdiction of the county-court of the sheriff of the county aforesaid; and also in this, to wit, that by the record aforesaid it appears, that the judgment aforesaid, in form aforesaid given, was given for the said *A. B.* against the said *C. D.* whereas by the law of the land, the said judgment ought to have been given for the said *C. D.* against the said *A. B.* And so the said *C. D.* says, that in the said court of the said county, false-judgment hath in divers instances been given against him in the plaint aforesaid; and he prays that the said judgment, for the above and other defects in the record aforesaid, may be reversed annulled, and altogether held for nothing, as being false and of no effect, and that the said *C. D.* may be restored to all things which he has lost by occasion of the said judgment, &c.

(§ 134.)
Simile 1.

And the said *A. B.* says that the said record is in no wise vicious or defective, nor is any false-judgment given against the said *C. D.* in or upon the plaint aforesaid; and he prays that the said court here may proceed to the examination of the said record, and to the reformation and correction of the false-judgment, if any shall be found or appear to be given therein, &c. But because, (&c.)

(§ 135.)
 Return to writ
 of false judgment, for removing proceedings commenced by justices, in the county-court of *Lancashire*, to the Common Pleas at *Lancaster*.

By virtue of this writ to me directed, I have in my open county-court, held in the Sessions-Hall in *Preston*, in and for the said county of *Lancaster*, on — the — day of — in the — year of the reign of our sovereign lord *George the third*, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, caused the plaint to be recorded, whereof mention is within made; and I have the record of the same plaint, before his majesty's justices at *Lancaster*, on the day within contained, under my seal, and the seals of four lawful men of the said county, of those who were present at the said recording; and by — and — I have summoned the within-named *A. B.* that he be before his said majesty's justices at *Lancaster*, on the day aforesaid, to hear the said record, as by this writ I

am commanded : which said record is contained in a schedule **CHAP. XLI.** to this writ annexed.

L. Marshall.

Lancashire, to wit. Plaintiff by writ, in the — county-courte of *I. K. esquire*, late sheriff of the county of *Lancaster*, holden at the Sessions-Hall in *Preston*, in and for the said county, and within the jurisdiction of the same court, on — the — day of — in the — year of the reign of our sovereign lord *George* the third, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18— (the day on which the writ of *justicies* was brought into court), before — and — suitors of the same court.

At this court, came here *A. B.* in his proper person ; and brings into the same court here, the writ of our said lord the now king of *justicies*, directed to the sheriff of *Lancashire* ; which said writ follows in these words, that is to say : *George* the third, by the grace of God, &c. (here copy the writ of *justicies*, verbatim :) And the said *A. B.* in the same court here, found pledges to prosecute his plaint, to wit, *John Doe* and *Richard Roe* ; and upon this the said *A. B.* puts in his place *E. F.* his attorney, against the said *C. D.* in the plea of the said plaint ; and by his said attorney, prays the process of the same court to be made to him thereupon against the said *C. D.* in the plea aforesaid ; and it is granted to him, &c. : and upon this it is, in and by the same court here, commanded to — and — the said sheriff's bailiffs for that turn only, jointly and separately, according to the custom of the said court, that they or some of them attach the said *C. D.* by his goods and chattels, so that he appear at the next county-court to be holden for the said county, to answer the said *A. B.* in the plea of his said plaint ; the same day is given, in and by the same court here, to the said *A. B.* to be there, &c. At which same next court, to wit, the — county-court of the said *I. K.* esquire, late sheriff of the county aforesaid, holden at the Sessions-Hall in *Preston* aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of — (the next court after the warrant issued,) in the said — year of the reign

CHAP. XLI. reign of our said lord the king before — and — suitors of the same court, comes the said *A. B.* by his attorney aforesaid, and offers himself against the said *C. D.* in the plea of the said plaint; and the said — and — bailiffs as aforesaid, now return to the same court here, the aforesaid precept, to them in form aforesaid directed, in all things served and executed: Whereupon the said *C. D.* being solemnly called, comes into the same court here, in his proper person; and puts in his place *G. H.* his attorney, at the suit of the said *A. B.* in the plea of the said plaint; and by his said attorney, prays that the said *A. B.* may declare against him upon his plaint aforesaid: And theroupon the said *A. B.* by his said attorney, now declares here, in this same court, against the said *C. D.* in the plea of his said plaint, in manner and form following, (that is to say): *Lancashire*, to wit. *C. D.* was attached, &c (here copy the declaration, plea and replication, which were all entered of the same court-day, *verbatim* :) And the said *C. D.* doth so likewise: Therefore, to try the issue above joined between the parties aforesaid, it is commanded by the court here, to — and — bailiffs and ministers of the aforesaid court, that they cause to come at the next court, to be holden at the Sessions-Hall in *Preston* aforesaid, in and for the county aforesaid, and within the jurisdiction of the same court, on — the — day of — next ensuing, twelve honest and lawful men of the same county, and within the jurisdiction of the same court, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given, in and by the same court here, to the parties aforesaid, to be there, &c. Before which said next court, the said *I. K.* esquire was in due manner removed from his said office of sheriff of the county aforesaid, and *L. M.* esquire was duly chosen constituted and appointed sheriff of the same county, in the lieu and stead of the said *I. K.* esquire: At which same court, to wit, at the first county-court of the said *L. M.* esquire, sheriff of the said county, holden at the Sessions Hall in *Preston* aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of — in the said — year of the reign of our said lord the king, before — and — suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; and the

the said and bailiffs and ministers of the court CHAP. XLI.
aforesaid, have sent here the aforesaid precept, to them in
form aforesaid directed, in all things served and exe-
cuted, together with a panel of the names of twelve honest
and lawful men of the county aforesaid, and within the
jurisdiction of the same court, who are in no wise akin
either to the said *A. B.* or to the said *C. D.* impanelled
to recognize in form aforesaid, between the parties afore-
said, and those jurors, in form aforesaid impanelled,
namely, *N. O.* &c. (here insert the names of the jurors who
tried the cause,) being solemnly called in the same court,
appear; who being chosen tried and sworn by the same court
here, to speak the truth of the premises above contained and
put in issue between the said parties, upon their oath say,
that the said several promises and undertakings in the said
declaration mentioned, were not, nor was any of them, made
as well by the said *I. S.* as by the said *C. D.* jointly, but that
the same were, and each and every of them was, made by the
said *C. D.* solely, in manner and form as by the said plaint is
above alledged; and they assess the damages of the said *A. B.*
by reason of the premises aforesaid, over and above his costs
and charges by him laid out about his suit in this behalf, to
—*l.* and for those costs and charges to —*s.* And upon
this the said *A. B.* prays the judgment of the court here, of
and upon the premises: And thereupon, all and singular the
premises aforesaid being seen and inspected, and by the
court here fully understood, and mature deliberation being
thereupon had, it is considered in and by the same court
here, that the said *A. B.* do recover against the said *C. D.*
his damages, costs and charges, in form aforesaid assessed by
the said jury, to —*l.* and also —*l.* for his said costs and
charges, by the said court here adjudged of increase to the
said *A. B.* and with his assent; which said damages costs
and charges in the whole amount to —*l.* and the said *C. D.*
in mercy, &c.

L. M. sheriff.

And hereupon the said *C. D.* says that the record aforesaid
is vicious, and in many respects defective, and that false-
judgment is given against him in and upon the plaint afore-
said, (§ 136.)
Assi nt of
false judgment,
for vicious
causes, in an
inferior court.

CHAP. XLI. said, in this, to wit, that it does not appear by the record aforesaid, that the said *A. B.* put in his place the said *E. F.* his attorney, against the said *C. D.* in the plea aforesaid, or that the said *C. D.* put in his place the said *G. H.* his attorney, at the suit of the said *A. B.* in the plea aforesaid; and also in this, to wit, that it does not appear by the said record, that the said *C. D.* appeared in the said court of our said lord the king of his wapentake aforesaid, holden at the borough of — aforesaid, in and for the said wapentake, at the return of the said precept in the said record in that behalf mentioned, to answer the said *A. B.* in the plea aforesaid; and also in this, to wit, that no day is given by the said record, to the said *C. D.* to appear at the said last-mentioned court, but it is thereby alledged, that the said *A. B.* had leave to imparl until the said — day of — in the year aforesaid, and then to answer; and also in this, to wit, that it does not appear by the said record, that the said *A. B.* declared upon the said plaint against the said *C. D.* in the plea aforesaid; and also in this, to wit, that the bill aforesaid, and the matters therein contained, in manner and form as the same are above stated and set forth, are not sufficient in law for the said *A. B.* to have or maintain his aforesaid action against the said *C. D.*: and also in this, to wit, that it does not appear by the said record, that the said plea was regularly continued from the said last-mentioned court, until the court of our said lord the king, holden at — aforesaid, in and for the said wapentake, on the said — day of — in the said year of our Lord —; and also in this, to wit, that the said record does not contain any panel of the names of the jurors aforesaid, nor does it appear thereby, that any precept issued to summon the said jurors, or that such precept was duly served and executed; and also in this, to wit, that no judgment appears to have been given for the damages costs and charges aforesaid, by the jurors aforesaid in form aforesaid assessed, or that the said *C. D.* should be in mercy; and also in this, to wit, that by the record aforesaid it appears, that the judgment aforesaid in form aforesaid given, was given for the said *A. B.* against the said *C. D.* whereas by the law of the land, the said judgment ought to have been given for the said *C. D.* against the said *A. B.*: And so the said *C. D.* says, that in the said court of our

our said lord the king of his wapentake aforesaid, holden at CHAP.XLI.
the borough of — aforesaid, in and for the said wapen-
take, false-judgment hath in divers instances been given, &c.
(as before, p. 660.)

CHAP. XLII.

Of DISTRESS, and REPLEVIN.

(§ 1.)
Warrant to dis-
train for rent.

I HEREBY authorize and require you to distrain the goods and chattels in the dwelling house (or, "in and upon the farm lands and premises") of *A. B.* situate at — in the county of —, for —*l.* being — years rent, due to me for the same at — last; and to proceed thereon, for the recovery of the said rent, as the law directs. Dated the — day of — 18—.

Your's, &c.

To *E. F.* my bailiff.

C. D.

(§ 2.)
Inventory of
the goods dis-
trained.

An inventory of the several goods and chattels distrained by me *C. D.* (or, "*E. F.*" the bailiff,) the — day of — in the year of our Lord 18—, in the dwelling-house, (&c.) of *A. B.* situate at — in the county of —, (and if the distress be made by a bailiff, say "by the authority and on the behalf of *C. D.*") for the sum of —*l.* being — years rent due to me, (or, "to the said *C. D.*") at —

In the *Dwelling-house*

In the *Parlour*: One table, (&c.)

(§ 3.)
Notice of dis-
tress.

Mr. A. B.

Take notice, that I have this day distrained you, that as bailiff to *C. D.* your landlord, I have this day distrained") on the premises above-mentioned, the several goods and chattels specified in the above inventory, for the sum of —*l.* being — years rent due to me, (or, "to the said *C. D.*") at — last, for the said premises; and that unless you pay the said rent, with the charges of distraining for the same, within five days from the date hereof, the said goods and chattels will be appraised and sold according to law. Given under my hand, the — day of — in the year of our Lord 18—.

Witness, *R. S.*

C. D.

Take

Take notice, that by the order and on behalf of *C. D.* I have this day taken and distrained, in and upon the farm and lands called — in your occupation, in the parish of — in the county of —, all the corn, grain and effects in the inventory hereunder written mentioned, for the sum of — being — years annuity or rent-charge of — *per annum*, due to the said *C. D.* at — last, and charged on, and issuing and payable out of, certain manors, farms, lands and premises called —, in the said parish of — in the county of — aforesaid, of which the farm and lands first above-mentioned are part and parcel; and that unless the said arrears of the said annuity or rent-charge, together with the expences of this distress, are paid and satisfied, the said corn, grain and effects will be disposed of according to law. Dated, (&c.)

CHAP.

XLII.

(& 4.)

The like, for the arrears of a rent-charge.

E. F.

To Mr. *A. B.* and all whom it may concern.

Memorandum, that I *A. B.* do hereby consent and agree, that *C. D.* my landlord, who hath distrained my goods and chattels for rent, in a dwelling-house, (&c.) situate at — in the county of —, shall continue in possession of my said goods and chattels, in the said dwelling-house, (&c.) for the space of — days from the date thereof; the said *C. D.* having agreed to forbear the sale of the said goods and chattels for — days, to enable me to discharge the said rent. And I the said *A. B.* do hereby agree to pay the expences of keeping the said possession. As witness my hand, the — day of — in the year of our Lord 18—.

(& 5.)

Memorandum of tenant's consent, to the landlord's continuing in possession.

A. B.

You, and each of you, shall well and truly appraise the goods and chattels mentioned in this inventory, (the constable at the same time holding the inventory in his hand, and shewing it to the appraisers,) according to the best of your judgment. So help you God.

(& 6.)

Appraiser's oath.

Memorandum, that on the — day of — in the year of our Lord 18—, *G. H.* of — and *I. K.* of — two sworn appraisers, were sworn upon the holy evangelists, by me *L. M.* of — constable, well and truly to appraise the goods and

(& 7.)

Memorandum thereof.

CHAP.
XLII.

and chattels mentioned in this inventory, according to the best of their judgment. As witness my hand.

L. M. constable.

Present at the time of
swearing the said *G. H.*
and *I. K.* above, and
witnesses thereto.

N. O.

P. 2.

(§ 8.)
Form of ap-
praisement.

We the above-named *G. H.* and *I. K.* being sworn upon the holy evangelists, by *L. M.* the constable above-named, well and truly to appraise the goods and chattels mentioned in this inventory, according to the best of our judgment, and having viewed the said goods and chattels, do appraise and value the same at the sum of —*l.* As witness our hands, the — day of — in the year of our Lord 18—.

G. H.

I. K.

Witness,

R. S.

Sworn appraisers.

(The two last forms are usually written on the inventory.)

(§ 9.)
Deputation to
grant reple-
vins.

— (to wit.) *W. P.* esquire, sheriff of the county afore-
said, to *R. S.* gentleman: I do hereby appoint you one of my
deputies, for making or granting replevins within the said
county, pursuant to the statute in that case made and pro-
vided; and for your so doing, this shall be your sufficient
warrant and authority. Given under the seal of my office,
the — day of — 18—.

By the same sheriff.

(§ 10.)
Writ of reple-
vin.

George the Third, (Kc.) To the sheriff of — greeting:
We command you, that justly and without delay, you cause
to be replevied to *A. B.* his cattle, goods and chattels, which
C. D. took and unjustly detains, as it is said; and afterwards
cause him to be justly remedied in this behalf, that we may
no longer hear any clamour thereupon, for want of justice.
Witness ourself at *Westminster*, the — day of — in the
— year of our reign.

George

George the Third, (&c.) To the sheriff of — greeting: We command you, as before you were commanded, that justly &c. (reciting the former writ to the end,) or signify to us the cause, wherefore you would not or could not execute our mandate to you thereupon before directed. Witness, (&c.)

CHAP.
XLII.
(§ 11.)
4495.

George the Third, (&c.) To the sheriff of — greeting! Whereas we have oftentimes commanded you, that justly, &c. (reciting the *alias*, to the end :) And you disregarding our aforesaid mandates, as we have heard, have not hitherto taken care to replevy to the said *A. B.* his cattle, goods and chattels aforesaid, or at least to signify to us the cause wherefore you would not or could not do it, in manifest contempt of us and of our aforesaid mandates, and to the great damage and injury of the said *A. B.* at which we are greatly surprised and offended : We therefore command you, firmlly in-joining you, that you cause to be replevied to the said *A. B.* his cattle, goods and chattels aforesaid, according to the tenor of our aforesaid mandates to you thereupon before directed, or that you be yourself before us, on — wheresoever, (&c.) to shew why you have neglected to execute our aforesaid mandates, to you thereupon so often directed ; and have there this writ. Witness, (&c.)

(§ 12.)
Purification.

—(1841.) *A. B.* complains of *C. D.* in a plea of taking and unjustly detaining his cattle, goods and chattels, against gages and pledges, &c.

(§ 13.)
Plant in reple-
vin.

Pledges to prosecute, } *John Doe,*
 } *and*
 } *Richard Roe.*

Know all men by these presents, That we *A. B.* of — *W. G.* of — and *T. S.* of — are jointly and severally held and firmly bound to *W. P.* esquire, sheriff of the county of —, in the sum of — *l.* (double the value of the cattle or goods distrained,) of lawful money of the united kingdom of *Great Britain and Ireland*, current in *England*, to be paid to the said sheriff, or his certain attorney, executors, administrators or assigns; for which payment to be well and truly made, we bind ourselves, and each and every of us in the whole, our and each and every of our heirs, executors and administrators.

(§ 14.)
Replevin bond.

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administrators, firmly by these presents: Sealed with our seals.
Dated the — day of — (&c.)

The condition of this obligation is such, that if the above-bounden *A. B.* do appear at the next county-court, to be holden for the county of — at —, on the — day of — next, and do then and there prosecute his suit with effect and without delay, against *C. D.* for the taking and unjustly detaining of his cattle, goods and chattels, to wit, (here set forth the cattle or goods distrained,) and do make return of the said cattle, goods and chattels, if a return thereof shall be adjudged; that then this present obligation shall be void and of none effect, or else to be and remain in full force and virtue.

Sealed, (&c.)

(§ 15.)
Assignment
thereof.

Know all men by these presents, that *W. P.* esquire, sheriff of the county of —, have at the request of the within-named *C. D.* the avowant (or, "person making cognizance") in this cause, assigned over this replevin-bond unto him the said *C. D.* pursuant to the statute in such case made and provided. In witness whereof, I have hereunto set my hand and seal of office, this — day of — 18—.

Sealed, (&c.)

(§ 16.)
Precept to re-
plevy.

— (to wit.) *W. P.* esquire, sheriff of the county aforesaid, to the bailiff of the hundred of — in the said county, and to *John Doe* and *Richard Roe* my bailiffs, and to every of them, jointly and severally, greeting: Forasmuch as *A. B.* hath found me sufficient security, as well for prosecuting his suit with effect against *C. D.* for taking and unjustly detaining his cattle, goods and chattels, to wit, (&c.) which the said *C. D.* hath taken and unjustly detains, as it is said, as also for making return thereof, if return thereof shall be adjudged; therefore on behalf of the said *A. B.* I command you, and every of you, jointly and severally, that without delay you replevy, and cause to be delivered to the said *A. B.* his said cattle, goods and chattels; and that you immediately summon the said *C. D.* to appear at my next county-court, to be holden at — in and for the said county, to answer the said *A. B.* in the plea aforesaid; and in what manner you shall have executed this precept, certify to me at my said next county-

county-court, to be held at the time and place aforesaid, under the peril attending the neglect thereof. Given under the seal of my office, this — day of — in the year of our Lord 18—.

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— (to wit,) By virtue of a warrant from the sheriff of the county of — to me directed, I summon you to appear at the next county-court to be holden at — in and for the county aforesaid, to answer *A. B.* in a plea of taking and unjustly detaining his cattle, goods and chattels. Dated the — day of — 18—.

(§ 17.)
Summons
thereon.

M. E. bailiff.

To Mr. *C. D.*

George the Third, (&c.) To the sheriff of — greeting : Whereas we have oftentimes commanded you, that justly and without delay you should cause to be replevied to *A. B.* his cattle, goods and chattels, to wit, (&c.) which *C. D.* hath taken and unjustly detained, as it is said, according to our writ to you before directed, or that you should be yourself before us on — wheresoever, (&c.) to shew why you neglected to execute our mandates to you thereupon so often directed : And you at that day returned to us, that the cattle, goods and chattels aforesaid were eloigned by the said *C. D.* out of your bailiwick, to places to you unknown, so that you could in nowise replevy the same to the said *A. B.* : Therefore we command you, that you take in *withernam*, the cattle, goods and chattels of the said *C. D.* in your bailiwick, to the value of the cattle, goods and chattels by him the said *C. D.* before taken, and deliver them to the said *A. B.* to be kept by him, until the said *C. D.* will deliver the aforesaid cattle, goods and chattels to the said *A. B.* : And in what manner you shall have executed this our writ, make appear to us on — wheresoever, &c. (or in C. P. “to our justices at *Westminster*, on —,”) that we may cause to be further done thereupon what of right, and according to the law and custom of *England*, we shall see meet to be done. We also command you, that if the said *A. B.* shall make you secure of prosecuting his claim, and of returning the cattle, goods and chattels aforesaid, if a return thereof shall be adjudged, then that you put by gages and safe pledges the said *C. D.* that he be before

(§ 18.)
Capias in withernam, on a writ of *pluries replevin*.

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before us, (or in C. P. "before our said justices,") at the time aforesaid, to answer to the said *A. B.* of the taking and unjustly detaining of his cattle, goods and chattels aforesaid; and there this writ. Witness, (&c.)

(§ 19.)
Precept in nature of a *replevin*, by the sheriff, on a plaint.

— (to wit.) *W. P.* esquire, high-sheriff of the said county, to all and singular my bailiffs of the said county, greeting: Forasmuch as *A. B.* hath found me sufficient security, as well to prosecute his plaint against *C. D.* for taking and unjustly detaining his cattle, goods and chattels, to wit, (&c.) as to make return thereof, if return thereof shall be adjudged; and thereupon, by virtue of my office, I have often commanded you, and every of you, that you or some or one of you should cause to be replevied to the said *A. B.* his aforesaid cattle, goods and chattels, which the said *C. D.* hath taken and unjustly detains, as it is said: And you, upon my several precepts of replevin to you directed as aforesaid, have certified, that the cattle, goods and chattels aforesaid are eloigned to places to you unknown, so that you cannot replevy the same to the said *A. B.*: Therefore I now command you, and every of you, that you, or some or one of you, do take in *withernam* the cattle, goods and chattels of the said *C. D.* to the value of the said cattle, goods and chattels so eloigned as aforesaid, and deliver the same to the said *A. B.* for his cattle, goods and chattels last aforesaid; and also that you put by gages and safe pledges the said *C. D.* so that he be and appear at my next county-court, to be holden at — in and for the said county, on the — day of — next, to answer to the said *A. B.* of the plea aforesaid; and that you or one of you return an answer to this my mandate, at my said next county-court. Given under the seal of my office, the — day of — (&c.)

(§ 20.)
Writ de propri-
etate probandâ.

George the Third, (&c.) To the sheriff of — greeting: Whereas you were oftentimes commanded, that justly and without delay you should cause to be replevied to *A. B.* his cattle, goods and chattels, to wit, (&c.) which *C. D.* had taken and unjustly detained, as it was said, or that you should signify to us the cause, wherefore you would not or could not execute our mandate to you thereupon before directed: And you disregarding our aforesaid mandates, as we were informed, neglected

neglected to replevy the aforesaid cattle, goods and chattels to the said *A. B.* or to signify to us the cause wherefore you would not or could not do it, in manifest contempt of us and of our aforesaid mandates, and to the great damage and injury of the said *A. B.* at which we were greatly surprised and offended: We therefore commanded and enjoined you, that you should cause to be replevied to the said *A. B.* his cattle, goods and chattels aforesaid, according to the tenor of our mandates aforesaid, to you thereupon before directed, or that you should be yourself before us, on — wheresoever we should then be in *England*, (or in C. P. “before our justices at *Westminster*, on —,”) to shew wherefore our aforesaid mandates to you thereupon directed, you had so often neglected or been unable to execute: And you at that day returned to us, that one *P. L.* claimed the property of the cattle, goods and chattels aforesaid to belong to him, whereby you had not then been able to replevy the aforesaid cattle, goods and chattels to the said *A. B.* and that no other writ for replevying the same had been delivered to you: We therefore, being unwilling that the said *A. B.* should by such false suggestion be defrauded of his cattle, goods and chattels aforesaid, whereby, if they belong to him, they cannot be replevied according to the law and custom of *England*, command you, that taking with you the keeper of the pleas of our crown of the county aforesaid, in the presence of the said *C. D.* if he will attend, after being summoned by you in that behalf, you diligently inquire, by the oath of good and lawful men of your bailiwick, by whom, (&c.) whether the cattle, goods and chattels aforesaid, so taken and detained, are the cattle, goods and chattels of the said *A. B.* or of the said *P. L.* And if by that inquisition it shall appear to you, that the cattle, goods and chattels aforesaid are the cattle, goods and chattels of the said *A. B.* then that you cause them to be replevied to the said *A. B.* according to the tenor of our mandates to you thereupon formerly directed: And nevertheless, if the said *A. B.* shall make you secure, (&c.) then that you attach the said *P. L.* so that you may have him before us, — wheresoever, (&c.) to answer as well to us for his contempt in this behalf, as to the said *A. B.* for the damage which he has sustained on occasion of the claim aforesaid: We likewise command you, that you put by gages

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and safe pledges the said *C. D.* that he be before —, (or in *C. P.* before our said justices,) at the time aforesaid, to answer the said *A. B.* of a plea wherefore he took the aforesaid *C. D.* goods and chattels, and unjustly detained them, as it is said: and have there the names of the pledges, and this written witness, (&c.)

(§ 21.)
Judgment of
non-pros, for
want of decla-
ration, in the
county-court;
with continu-
ance by *dies da-*
tus.

— (to wit.) The — county-court of *I. K.* esquire, sheriff of the county aforesaid, holden at — in —, in and for the said county, and within the jurisdiction of the same court, according to the custom of the said court, from time whereof the memory of man is not to the contrary there used and approved of in the same court, on — the — day of — in the — year of the reign of our sovereign lord *George* the third, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—, before *L. M.* and *N. O.* freeholders of the said county, and suitors of the said court.

Be it remembered, that heretofore, to wit, on the — day of — in the year of our Lord 18—, at — aforesaid, came *A. B.* in his proper person, and then and there made and levied to and before the said *I. K.* then being sheriff of the county of — aforesaid, out of the county-court of the said sheriff, his certain plaint against *C. D.* of a plea of taking and unjustly detaining the goods and chattels of the said *A. B.* to wit, (&c.) and then and there found pledges, as well to prosecute his suit with effect, as to make return of the said goods and chattels, if a return thereof should be adjudged by law, to wit, *E. F.* of — and *G. H.* of —; which said plaint is entered in the said court here, as follows:

— (to wit.) *A. B.* complains of *C. D.* of a plea of taking and unjustly detaining his goods and chattels, to wit, (&c.) and also found pledges as well to prosecute his suit with effect, as to make a return of the said goods and chattels, if a return thereof shall be adjudged by law, to wit, *E. F.* of — and *G. H.* of —: And now in the same court here, comes the said

said *A. B.* in his proper person, and offers himself against the said *C. D.* in the plea of his said plaint; and the said *C. D.* having been duly summoned in that behalf, doth come into the same court here, in his proper person: and thereupon the said *A. B.* in this same court, puts in his place — his attorney, against the said *C. D.* in the plea of the said plaint; and the said *C. D.* in the same court here, puts in his place — his attorney, at the suit of the said *A. B.* in the plea aforesaid: And thereupon the said *A. B.* prays a day to declare against the said *C. D.* in the plea of the said plaint here, until the next court of the county aforesaid, to be holden at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of — now next ensuing; and he hath it, &c.; the same day is given to the said *C. D.* to be there, &c. At which same next court, to wit, the — county-court of the said *I. K.* sheriff of the county aforesaid, held at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on the aforesaid — day of — in the — year of the reign of our said lord the now king, before — and — freeholders within the said county, and suitors of the same court, comes the said *C. D.* by his attorney aforesaid, and offers himself against the said *A. B.* in the plea of his said plaint; but the said *A. B.* although solemnly called, comes not, but makes default, nor does he further prosecute his plaint against the said *C. D.*: Therefore it is considered by the court here, that the said *A. B.* take nothing by his said plaint, but that he and his pledges to prosecute be in mercy, &c.; and that the said *C. D.* do go thereof without day, &c.; and that he have a return of the said goods and chattels, &c. It is also considered by the court here, that the said *C. D.* do recover against the said *A. B.* — *l.* for his costs and charges by him laid out about his defence in this behalf, by the said court here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

— (to wit.) *I. K.* esquire, high-sheriff of the said county, (§ 22.)
to all and singular my bailiffs of the said county, greeting: Precept of re-
Whereas heretofore, to wit, at the — county-court of *G. H.* torio habendo, in
esquire, late sheriff of the county aforesaid, holden at — the county-
court, on a
judgment of
non-pros for
in want of a plea
in bar.

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in and for the said county, and within the jurisdiction of the same court, on — the — day of — in the — year of the reign of our lord the now king, before *L. M.* and *N. O.* free suitors of the same court, came *A. B.* in his proper person; and then and there, in the same court, levied his plaint against *C. D.* as bailiff of *E. F.* of a plea of taking and unjustly detaining his goods and chattels, to wit, (here set out the goods, as in the plaint): And afterwards, to wit, at the county-court of the said *G. H.* late sheriff of the county aforesaid, holden at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of — in the — year of the reign of our said lord the king, before — and — free suitors of the same court, the said *A. B.* declared in the said plea against the said *C. D.* as bailiff of the said *E. F.* that the said *C. D.* on the — day of — in the year of our Lord 18— at the parish of — in the county of — aforesaid, and within the jurisdiction of the said court, in a certain dwelling-house there, did take the aforesaid goods and chattels of the said *A. B.* and the same then and there unjustly detained against sureties and pledges, until, &c. as it was said: And afterwards, to wit, at the — county-court of me the said *I. K.* sheriff of the county aforesaid, holden at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of — in the — year of the reign of our said lord the king, before — and — free suitors of the same court, the said *C. D.* appearing in the said court, as bailiff of the said *E. F.* well acknowledged the taking of the said goods and chattels, in the said dwelling-house in which, &c. and justly, &c. for certain rent due and in arrears from the said *A. B.* to the said *E. F.* for the said dwelling-house in which, &c. with the appurtenances, held and enjoyed by the said *A. B.* under a certain demise thereof, for the space of — quarters of a year, next before and ending on the — day of — in the year of our Lord 18—: And such further proceedings were thereupon had, that afterwards, to wit, at the — county-court of me the said *I. K.* sheriff of the county aforesaid, holden at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of — in the — year aforesaid, before — and — free suitors of the same court, it was considered and adjudged by

by the same court, that the said *A. B.* should take nothing by his said plaint; but that he and his pledge should prosecute should be in mercy, &c.; and that the said *C. D.* should go thereof without day, &c.; and that he should have a return of the goods and chattels aforesaid, &c. Therefore I now command you, and every of you, that without delay, or some or one of you, cause the said goods and chattels to be returned to the said *C. D.*; and that you do not deliver them, on the complaint of the said *A. B.* without my precept, which makes express mention of the judgment aforesaid: And in what manner you shall have executed this my precept, make appear to me, at my next county-court, to be holden at — aforesaid, in and for the county aforesaid, on — the — day of — next. Given under the seal of my office, the — day of — in the year of our Lord 18—.

George the Third, (&c.) To the sheriff of — greeting: Put, at the prayer of the plaintiff, before us on —, where-soever we shall then be in *England*, (or in C. P. “before our justices at *Westminster*, on —,”) the plaint which is in your county, by our writ, between *A. B.* and *C. D.* of the cattle goods and chattels of the said *A. B.* taken and unjustly detained, as it is said: and summon by good summoners the said *C. D.* that he be then there, to answer to the said *A. B.* there-upon; and have there the summoners, and this writ. Witness ourself at *Westminster*, the — day of — in the — year of our reign. (§ 23.)
Pone, for the plaintiff.

George the Third, (&c.) To the sheriff of — greeting: Put before us, on — wheresoever we shall then be in *England*, (or in C. P. “before our justices at *Westminster*, on —,”) the plaint which is in your county, by our writ, between *A. B.* and *C. D.* of the cattle goods and chattels of the said *A. B.* taken and unjustly detained, as it is said; and apprise the said *A. B.* that he may be there, if he will, to prosecute his plaint aforesaid against the said *C. D.*; and have there this writ, and the other writ. Witness ourself at *Westminster*, the — day of — in the — year of our reign. And because, *E. F.* clerk of — sheriff of the county aforesaid, who

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who frequently in the absence of the sheriff of that county, holds the pleas of the same county, is the kinsman of the said *A. B.* for which the same sheriff favours him the said *A. B.* in the plea aforesaid, as it is said; let this writ be executed, if the cause be true, and the said *C. D.* require it, otherwise not.

(§ 95)
Certification of
Chancery to
return a re-
plevin cause
from the Pleas
the court of
Chester

George the Third, (&c.) To the sheriffs of the county of our city of *Chester*, greeting We being willing for certain causes, to be certified of the record and process of a certain plaint, which is before you, in the court of the said city, without our writ, between *A. B.* and *C. D.* of the goods and chattels of the said *A. B.* taken and unjustly detained, as it is said, command you, that you, send the record and process of the said plaint, under your seals, to us in our *Chancery*, wheresoever it shall then be Witness ourself at *Westminster*, the — day of — in the — year of our reign.

Allen.

(§ 26)
Return thereto.

The answer of *J. K.* and *L. M.* sheriffs of the city of *Chester*.

The execution of this writ appears in a certain schedule hereunto annexed.

By the said sheriffs.

Pleas of the court of our lord the king of *Pentice* of the city of *Chester*, held at the same city, in the Common Hall of Pleas there, according to the use and custom of the same city, hitherto obtained approved and used, from time whereof the memory of man is not to the contrary, before *J. K.* and *L. M.* sheriffs of the said city of *Chester*, upon — the — day of — in the — year of the reign of our sovereign lord *George the third*, king of the united kingdom of *Great Britain* and *Ireland*, &c.

A. B. complains against *C. D.* in a plea of taking and unjustly detaining the goods and chattels of the said *A. B.*

—, 18—. *G. H.* appears, and prays a declaration: Day given to declare.

J. K.
L. M.
George

George the Third, (&c.) "To our right trusty and well-beloved Edward Lord Ellenborough, our chief-justice appointed to hold pleas before us, greeting: We send you inclosed in these presents, the record and process of a certain plaint, which was in our court of the county of the city of Chester, without our writ, between *A. B.* and *C. D.* of the goods and chattels of the said *A. B.* taken and unjustly detained, as it is said, certified to us by the sheriffs of the county of the city aforesaid, into our *Chancery*, by virtue of our writ of *certiorari*, and remaining on the files of our said *Chancery*; commanding you, that inspecting the record and process aforesaid, you cause further to be done therein, at the prosecution of the said *A. B.* as of right, and according to the law and custom of *England*, shall be meet to be done. Witness ourself at *Westminster*, the — day of — in the — year of our reign.

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(§ 27.)
Mittimus, to the
King's Bench.

Allen.

— (to wit.) *Re. fa. lo.* between *A. B.* and *C. D.* for taking and unjustly detaining the cattle goods and chattels of the said *A. B.* Returnable before the lord the king, on — wheresoever, &c. (or in C. P. "before his majesty's justices at *Westminster*, on —"). On the part of the plaintiff (or "defendant").

(§ 28.)
Præcipe for re-
cordari facias lo-
quelam.

— attorney.
— 18—.

George the Third, (&c.) To the sheriff of — greeting: We command you, that in your full county, you cause the plaint to be recorded, which is in the same county, without our writ, between *A. B.* and *C. D.* of the cattle goods and chattels of the said *A. B.* taken and unjustly detained, as it is said; and that you have the said record before us on —, wheresoever we shall then be in *England*, (or in C. P. "before our justices at *Westminster*, on —,") under your seal, and the seals of four lawful knights of the same county, of those who were present at the said recording; and that you prefix the same day to the parties, that they be then there to proceed in that plaint, as shall be just; and that you have here the names of the said four knights, and this writ. Wit-

(§ 29.)
Recordari facias loquelam, by the
plaintiff.

ness

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ness ourself at *Westminster*, the — day of — in the — year of our reign.

Let this writ be executed, if the aforesaid *A. B.* require it, otherwise not.

If the *recordari* be shewn by the defendant, there must be a cause assigned at the writ, as thus : " Because the said *C. D.* in pleading asserts, that he took the said cattle goods and chattels in his separate soil, as doing him damage there, in which soil the said *A. B.* claims to have common of pasture, as he says ; which said plaint, inasmuch as it concerns the freehold as aforesaid, ought not, according to the law and custom of *England*, to be impleaded in the same county without our writ ; let this writ be executed, if the cause be true, and the said *C. D.* require it, otherwise not."

Summons on *re. fa. lo.* as before, p. 671.

(§ 30.)

* Return to the
recordari.

By virtue of this writ to me directed, in my full county, holden at — in and for the county of —, on — the — day of — in the — year of the reign, (&c.) I caused to be recorded the plaint, which is in the same county, without the writ of our said lord the king, between *A. B.* and *C. D.* of the cattle goods and chattels of the said *A. B.* taken and unjustly detained, as it is said ; which said plaint appears in a certain schedule to this writ annexed : and I have the said record before our said lord the king ; (or in C. P. " before his majesty's justices") at *Westminster*, at the day within contained, under my seal, and the seals of *E. F.* (&c.) four lawful knights of the same county, who were present at the said recording ; and I have prefixed the same day to the parties within-named, that they may be then there, ready to proceed in the said plaint, as shall be just, and as I am within commanded.

The answer of — sheriff,

— (to wit). At the — county-court of *K. P.* esquire, sheriff of the county aforesaid, held at — in and for the said county, on — the — day of — in the — year of the reign of our sovereign lord the king, by the grace of God, (&c.) and in the presence of — Lord —, before
E. F.

E. F. (&c.) freeholders of the said county, (amongst other things,) it is entered as follows:

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— (to wit) *A. B.* yeoman complaineth in *C. D.* of a plea of taking and unjustly detaining his cattle goods and chattels, to wit, (&c.) and also found pledges as well to prosecute his suit with effect, as to make a return of the said cattle goods and chattels, if a return thereof shall be adjudged by law, to wit, *G. H.* of — and *I. K.* of —.

By the same sheriff.

George the Third, (&c.) To the sheriff of — greeting: Put by gages and safe pledges, *C. D.* late of —, that he be before us, on — wheresoever we shall then be in *England*, (or in *C. P.* “before our justices at *Westminster*, on —,”) to answer to *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, as it is said; and to shew wherefore he was not in our court before us, (or in *C. P.* “before our said justices,”) on — last past, as that day was prefixed to him; and have there the names of the pledges, and this writ. Witness *Edward Lord Ellenborough*, (or in *C. P.* “*Sir Vicary Gibbs* knight,”) at *Westminster*, the — day of — in the — year of our reign. (§ 31.)
Pone, upon a recordari.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you distrain *C. D.* late of —, by all his lands and chattels in your bailiwick, so that neither he, nor any one by him, do lay hands on the same, until you shall have another command from us in that behalf, and that you answer to us for the issues thereof, so that you have his body before us, on — wheresoever we shall then be in *England*, (or in *C. P.* “before our justices at *Westminster*, on —,”) to answer to *A. B.* of a plea wherefore, &c. (as in the *pone*, to the words “as it is said,”) and to hear judgment thereupon of his many defaults, and have there this writ. Witness, (&c.) (§ 32.)
Distringas thereon.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you take *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us, on — wheresoever we shall then be in *England*, (§ 33.)
Capias.

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England, (or in C. P. "before our justices at *Westminster* on —") to answer *A. B.* of a plea wherefore, &c. (as in the former writ, so the words "as it is said;") and have there this writ. Witness, (&c.)

(§ 34.)
Procedendo,
where the re-
cordari is not
returned.

George the Third, (&c.) To the sheriff of — greeting
Although we lately commanded you, that in your full county, you should cause the plaint to be recorded, which was in the same county, without our writ, between *A. B.* and *C. D.* of the cattle goods and chattels of the said *A. B.* taken and unjustly detained, as it was said; and that you should have the said record before us, on — wheresoever we should then be in *England*, (or in C. P. "before our justices at *Westminster*, on —") under your seal, and the seals of four lawful knights of the same county, of those who should be present at the said recording; and that you should prefix the same day to the parties, that they might be then there, to proceed in that plaint, as should be just; and that you should have there the names of the said four knights, and that writ: Yet we being now moved with certain causes in our court before us, (or in C. P. "before our said justices,") command you, that in the same plaint against the said *C. D.* at the suit of the said *A. B.* before you levied or affirmed, and now depending undetermined, you proceed at your next county-court, to be holden in and for the same county, with what speed you can, in such manner, according to the law and custom of *England*, as you shall see proper; our said writ to you in that behalf heretofore directed, to the contrary in anywise notwithstanding. Witness, (&c.)

(§ 35.)
*Accedas ad
curiam.*

George the Third, (&c.) To the sheriff of — greeting:
We command you, that taking with you four discreet and lawful knights of your county, you go in your proper person to the court of —, and in that full court you cause to be recorded the plaint which is in the same court, without our writ, between *A. B.* and *C. D.* (&c.) and have that record before us, on — wheresoever we shall then be in *England*, (or in C. P. "before our justices at —, on —") under your seal, and the seals of four lawful knights of the same county, who were present at that recording, and prefix the same day to the parties aforesaid, that they be then there, to proceed

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proceed in that plaint, as shall be just, and have there the names of the said four lawful men, and this writ. Witness ourself at *Westminster*, (&c.) Because the said *C. D.* is bailiff of the aforesaid — of his court aforesaid, and holds pleas in the same court, and ought not to be a judge in his own cause; let this writ be executed, if the cause be true, and the said *A. B.* require it, otherwise not.

George the Third, (&c.) To the sheriff of — greeting: (§ 36.)
Procedendo
thereon.
Whereas by our writ we lately commanded you, that taking with you four discreet and lawful knights of your county, you should go in your proper person to the court of —, and in that full court you should cause to be recorded the plaint, which was in the same court, without our writ, between *A. B.* and *C. D.* (&c.) and that you should have that record before us, on —, wheresoever we shall then be in *England*, (or in C. P. “before our justices at *Westminster*, on —,”) under your seal, and the seals of four lawful men of the same court, who were present at that recording, and prefix the same day to the parties, that they should be then there to proceed in that plaint, as should be just, and that you should have there the names of the said four lawful men, and that writ; because the said *C. D.* was bailiff of the aforesaid — of his court aforesaid, and held pleas in the same court, and ought not to be a judge in his own cause; and that the said writ should be executed, if the cause were true, and the said *A. B.* required it, otherwise not. And you on that day returned to us, (or in C. P. “to our said justices here,”) that by virtue of the said writ to you directed, on —, taking with you four discreet and lawful knights of your county, you went in your proper person to the court of — then held there, and in that full court you caused the plaint to be recorded, whereof mention is made in the aforesaid writ; the record of which said plaint, annexed to the said writ, you had ready before us, (or in C. P. “before our said justices,”) at the aforesaid day, under your seal, and the seals of four lawful men of the same court, who were present at that recording; and that you had prefixed the same day to the parties aforesaid, as by the said writ was commanded: Which said record follows in these words, to wit: *A. B.* complains against *C. D.* of a plea, &c. (here copy the record): And for divers causes

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causes us therefore moving it was considered in our same court, that the said — (the lord,) ought further to proceed in the plea aforesaid, and that the parties aforesaid: Therefore we command, and do adjoint you, that you give in charge to the said — that he proceed further in the plea aforesaid, according to the law and the custom of his manor aforesaid, our aforesaid — you thereupon directed in any wise notwithstanding; and that he render to the parties aforesaid full and speedy justice in the premises, as of right and according to law and the custom of the manor aforesaid, hath been used to be done. Witness *Edward Lord Ellenborough*, (or in C. P. "Sir *Vicary Gibbs* knight,") at *Westminster*, (&c.)

(§ 37.)
Præcipe for appearance, for defendant.

— (to wit.) Appearance for *C. D.* at the suit of *A. B.* to a *recordari facias loquelam*, returnable on, (&c.)

G. H. attorney.

(§ 38.)
Rule to declare, in K. B.

A. B. } — next after — is to the plaintiff in re-
v. } plevin to declare; otherwise let there be a return of
C. D. } the goods.

Entered.

(§ 39.)
Judgment for the defendant, for a return, &c. on a non-pros for want of a declaration, at common law.

As yet of — term, (&c.)
— (to wit.) *C. D.* puts in his place *G. H.* his attorney, at the suit of *A. B.* in a plea of taking and unjustly detaining the cattle goods and chattels of the said *A. B.* against gages and pledges, &c.

Judgment signed, (&c.)

— (to wit.) *U. D.* was summoned to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, &c. And thereupon the said *C. D.* in his proper person; offers himself on the fourth day against the said *A. B.* in the plea aforesaid; but the said *A. B.* although solemnly called, comes not, but makes default, and does not further prosecute his writ against the said *C. D.* Therefore it is considered, that the said *A. B.* take nothing by the said writ, but that he and his pledges to prosecute be in mercy, &c.; and that the said *C. D.* do go the way of acquittal, &c.; and that

he

he have a return of the said cattle goods and chattels, &c.: It is also considered by the court here, that the said *C. D.* do recover against the said *A. B.* for costs and charges by him laid out about his defence, on his behalf; by the said court here adjudged to the said *C. D.* with his assent, according to the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c. Execution.

In the Common Pleas, the warrant of attorney is not inserted on the judgment roll.

(Entry of warrant of attorney for the defendant, as in the last.)

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, &c. And thereupon the said *C. D.* in his proper person offers himself, on the fourth day, against the said *A. B.* in the plea aforesaid; and the said *A. B.* comes not, but makes default: Therefore it is considered, that the said *A. B.* take nothing by his said default, but that he and his pledges to prosecute be in mercy, &c.; and that the said *C. D.* do go thereof without day, &c.; and that he have a return of the said cattle goods and chattels, &c.: And thereupon the said *C. D.* according to the form of the statute in such case made and provided, suggests, and gives the court here to understand and be informed, that he the said *C. D.* took the said cattle goods and chattels of the said *A. B.* for the taking whereof he was summoned to be in the said court of our said lord the king before the king himself, (or in C. P. “before his justices here,”) to answer to the said *A. B.* as aforesaid, at the parish of — in the said county of —, in a certain place there called —, and that he took the same as bailiff of *E. F.* for that the said *A. B.* for the space of — next before and ending on the — day of — in the year of our Lord 18—, and from thence until the time of taking the said cattle goods and chattels, did and enjoyed the said place in which, &c. with the appurtenances, amongst other things, as tenant thereof to the said *E. F.* and under the yearly rent of —/l. payable on, (&c.) and bearing the sum of —/l. of the rent aforesaid, for the said place — ending as aforesaid, on the said — day of — in the year aforesaid, and from thence

(§ 40)
The like, for
the arrears of
rent, &c. on
statute 17
Car. II. c. 7.
§ 2.

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thence until and at the time of taking the said cattle goods and chattels, was in arrear and unpaid from the said *A. B.* to the said *E. F.* he the said *C. D.* as bailiff of the said *E. F.* took the said cattle goods and chattels, as for and in the name of a distress for the said *E. F.* so due and in arrear from the said *A. B.* to the said *E. F.* aforesaid : And hereupon the said *C. D.* according to the form of the statute in such case made and provided, prays the writ of our said lord the king, to be directed to the sheriff of —, to inquire of the sum in arrear of the rent aforesaid, and of the value of the cattle goods and chattels aforesaid ; and it is granted to him, &c. Therefore it is commanded to the said sheriff of —, that according to the form of the statute aforesaid, he diligently inquire, by the oath of twelve good and lawful men of his bailiwick, how much of the yearly rent aforesaid, at the time of taking and distraining the said cattle goods and chattels, was in arrear and unpaid, and how much the said cattle goods and chattels so as aforesaid taken and distrained were worth, according to the true value of the same ; and that the inquisition which the said sheriff shall hereupon take, he make appear to our said lord the king, on — wheresoever our said lord the king shall then be in *England*, (or in C. P. “ to the justices here, on —,”) under his seal, and the seals of those by whose oath he shall take the said inquisition ; and that he have there the names of those by whose oath he shall take the said inquisition, together with the writ of our said lord the king to him thereupon directed ; the same day is given to the said *C. D.* &c. At which day, before our said lord the king at *Westminster*, comes (or in C. P. “ At which day comes here,”) the said *C. D.* by his attorney aforesaid ; and the sheriff of —, to wit, — now here returns a certain inquisition indented, taken before him at — in the said county, on — the — day of — in the — year of the reign of our said lord the king, by the oath of twelve good and lawful men of his county ; whereby it appears, that the sum of —*l.* of the said yearly rent, was in arrear and unpaid, and due and owing from the said *A. B.* to the said *C. D.* at the time in the said avowry (or “ cognizance”) mentioned, and of the distress taken ; and that the cattle goods and chattels distrained were worth, according to the true value thereof, the sum of —*l.* Therefore it is considered, that the said

C. D.

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C. D. do recover against the said *A. B.* the said sum of —*l.* being the arrearages of the said rent by the said inquisition in form aforesaid found, and also —*l.* by the court of our said lord the king now here adjudged to the said *C. D.* and at his request, for his costs and charges by him laid out about his defence in this behalf, according to the form of the statute in such case made and provided, in the said arrearages costs and charges in the whole amount to —*l.*; and that the said *C. D.* have execution thereof, &c.

Execution.

Therefore it is considered, that the said *C. D.* do recover against the said *A. B.* the said —*l.* parcel of the rent aforesaid, by the said inquisition in form aforesaid found, and also —*l.* by the court of our said lord the king now here adjudged to the said *C. D.* and at his request, for his costs and charges, &c. (as in the last;) which said value costs and charges in the whole amount to —*l.*; and that the said *C. D.* have execution thereof, &c.

Execution.

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* was summoned to be in our court before us, (or in C. P. “before our justices at *Westminster*,”) to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, &c. And the said *C. D.* offered himself in our said court before us, (or in C. P. “before our said justices,”) on the fourth day, against the said *A. B.* in the plea aforesaid; but the said *A. B.* although solemnly called, came not, but made default, nor did he further prosecute his writ against the said *C. D.* Therefore it was considered by the same court, that the said *A. B.* should take nothing by his said writ, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the said cattle goods and chattels, &c. And thereupon it hath been suggested in our said court before us, (or in C. P. “before our said justices,”) by the said *C. D.* that he took the said cattle goods and chattels of the said *A. B.* for the taking whereof he was summoned to be in our said court before us, (omitting “before us” in C. P. to answer the said *A. B.* as aforesaid, at — in the said county, in a certain place there called

(§ 41.)
The like, where
the goods are
found to be of
less value than
the rent.

(§ 42.)
Writ of inquiry,
to ascertain
the arrears of
rent, &c. on a
non-pros for
want of de-
claration, on
stat. 17 Car. II.
c. 7, § 2.

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called —, and that he took the same as bailiff of *E. F.* for that the said *A. B.* for the space of — next before and ending on the — of — the year of our Lord 18—, and from thence until — the time of taking the said cattle goods and chattels, he and enjoyed the said place in which, &c. with the appurtenances amongst other things, as tenant thereof to the said — and under the yearly rent of —/—. And because — of the rent aforesaid, for the said space of — ending as aforesaid, on the said, (&c.) and from thence until and at the time of taking the said cattle goods and chattels, were due and in arrear from the said *A. B.* to the said *E. F.* he the said *C. D.* as bailiff of the said *E. F.* took the said cattle goods and chattels, as for and in the name of a distress for the said rent, so due and in arrear from the said *A. B.* to the said *E. F.* as aforesaid: And thereupon the said *C. D.* according to the form of the statute in such case made and provided, prayed our writ, to be directed to you, to inquire of the arrears of the rent aforesaid, and of the value of the said cattle goods and chattels, and it was granted to him, &c. as by the record and proceedings thereof, still remaining in our said court before us, (or in C. P. “before our said justices”) at *Westminster* aforesaid, fully appears. Therefore we command you, that according to the form of the statute aforesaid, you diligently inquire, by the oath of twelve good and lawful men of your bailiwick, how much of the yearly rent aforesaid, at the time of taking and distraining the said cattle goods and chattels, was in arrear and unpaid, and how much the said cattle goods and chattels so as aforesaid taken and distrained were worth, according to the true value of the same; and the inquisition which you shall thereupon take, make appeal to us, on — wheresoever we shall then be in *England*, (or in C. P. “to our said justices at *Westminster*, on —,”) under your seal, and the seals of those by whose oath you shall take the said inquisition; and have there the names of those by whose oath you shall take the said inquisition, and this writ. Witness *Edward Lord Ellenborough*, (or in C. P. “*Sir Vicary Gibbs knight*,”) at *Westminster*, the — day of — in the — year of —.

In the King's Bench,
(or Common Pleas.)

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(§ 43.)

Declaration in
replevin, in
K. B. or C. P.

— term, (&c.)
— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained the same against gages and pledges, until, &c.; and therefore the said *A. B.* by *E. F.* his attorney complains, that the said *C. D.* on the — day of — the year of our Lord 18— at the parish of — in the county of —, in a certain dwelling house there, (or, “in a certain place there called —,”) took the cattle goods and chattels, to wit, (&c.) of the said *A. B.* and unjustly detained the same against gages and pledges, until, &c. Wherefore the said *A. B.* says that he is injured, and hath sustained damage to the value of —*l.* and therefore he brings his suit, &c.

As yet of — term, (the term of which interlocutory judgment is signed,) in the — year of the reign of king *George* the third. Witness *Edward* Lord *Ellenborough*.

(§ 44.)
Judgment for
the plaintiff,
by *nil dicat*, in
K. B.

— (to wit.) *A. B.* puts in his place *E. F.* his attorney, against *C. D.* in a plea of taking and unjustly detaining the cattle goods and chattels of the said *A. B.* against gages and pledges, &c.

— (to wit.) The said *C. D.* puts in his place *G. H.* his attorney, at the suit of the said *A. B.* in the plea aforesaid.

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea wherefore, &c. (here copy the declaration *verbatim*, and proceed on a new line as follows :)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.*; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the taking and unjustly detaining of the cattle goods and chattels aforesaid: But because it is unknown, &c. (as before, p. 229. making the writ of inquiry returnable on a general return-day, wheresoever, &c.)

Y y

— (to wit.)

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(§ 45.)
The writ, in
C. P.

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea wherefore, &c. (to the end of the declaration; and then, on a new line, as in the last precedent, awarding the writ of inquiry as before, p. 230.)

(§ 46.)
Writ of inquiry
of damages,
for the plain-
tiff.

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* was summoned to be in our court before us, (or in C. P. “before our justices at *Westminster*,”) to answer *A. B.* of a plea wherefore the said *C. D.* on the — day of — in the year of our Lord 18—, at the parish of — in your county, in a certain place there called —, took the cattle goods and chattels of the said *A. B.* to wit, &c. (here set out the cattle and goods, as in the declaration,) and unjustly detained them against gages and pledges, until, &c.; wherefore the said *A. B.* said that he was injured, and had sustained damage to the value of —*l.* and therefore he brought his suit, &c. And such proceedings were thereupon had in in our said court before us at *Westminster* aforesaid, (or in C. P. “it was in such manner proceeded in our said court,”) that the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the taking and unjustly detaining of the cattle goods and chattels aforesaid: But because it is unknown, &c. (as before, p. 235, 6. concluding the writ as by *original*, in K. B. for which *vide ante*, p. 236. and in C. P. as before, p. 237.)

(§ 47.)
Plea of non
cepit.

C. D. } And the said *C. D.* by *G. H.* his attorney, comes
ats. } and defends the wrong and injury when, &c. and says
A. B. } that he did not take the said cattle goods and chattels
in the said declaration mentioned, in manner and form as the
said *A. B.* hath above thereof complained against him: And
of this he the said *C. D.* puts himself upon the country, &c.

(§ 48.)
*Cepit in alio le-
co*, with an
avowry or cog-
nizance for a
return.

C. D. } And the said *C. D.* by *G. H.* his attorney, comes
ats. } and defends the wrong and injury when, &c. and prays
A. B. } judgment of the declaration aforesaid: because he
says, that he took the cattle goods and chattels aforesaid in
the parish of —, in a certain place there called —, in
the county aforesaid; without this, that he took the aforesaid
cattle

cattle goods and chattels at —, in the aforesaid place called —, as the said *A. B.* by his declaration aforesaid hath above supposed; and this he the said *C. D.* is ready to verify, wherefore he prays judgment of the declaration aforesaid, &c. And for having a return of the said cattle goods and chattels, the said *C. D.* well avows (or, “as bailiff of *G. N.* esquire, well acknowledges”) the taking, &c. (as in the next form.)

C. D. } And the said *C. D.* by *G. H.* his attorney, comes (\$ 49.)
ats. } and defends the wrong and injury when, &c. and well Avowry or
A. B. } avows (or, “as bailiff of *G. N.* well acknowledges”) for damage
the taking of the said cattle, in the said place in which, &c. *feasant, on a*
and justly, &c. Because he saith, that the said place in freehold.
which, &c. now is, and at the said time when, &c. was, the
close soil and freehold of him the said *C. D.* (or, “of the said
G. N.”) : And because the said cattle at the said time when,
&c. were in the said place in which, &c. eating up the grass
there then growing, and doing damage there to the said *C. D.*
he the said *C. D.* well avows (or, “as bailiff of the said *G. N.*
well acknowledges”) the taking of the said cattle, in the said
place in which, &c. and justly, &c. as for and in the name of
a distress for the said damage, so there done and doing, &c.

A. B. } And the said *A. B.* says that the said *C. D.* by (\$ 50.)
v. } reason of any thing in his said avowry (or “cogni- Plea in bar
C. D. } zance”) above alledged, ought not to avow (or, “as thereto.
bailiff of the said *G. N.* to acknowledge”) the taking of the
said cattle, in the said place in which, &c. and justly, &c.
Because he says that the said place in which, &c. now is, and
at the said time when, &c. was, the close soil and freehold of
him the said *A. B.* and not the close soil and freehold of the
said *C. D.* (or, “*G. N.*”) in manner and form as the said
C. D. hath above in his said avowry (or “cognizance”) in
that behalf alledged : And this he the said *A. B.* prays may
be inquired of by the country, &c.

C. D. } And the said *C. D.* by — his attorney, comes (\$ 51.)
ats. } and defends the wrong and injury when, &c. and well Avowry or
A. B. } avows (or, “as bailiff of *G. N.* esquire, well ac- cognizance for
knowledges”) the taking of the said goods and chattels in the rent, on stat.
said declaration mentioned, in the said dwelling-house in 11 G. II. c. 19.
which, &c.

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which, &c. (or, if not mentioned in the declaration, "in a certain dwelling-house, situate and being at the parish aforesaid in the county aforesaid,") and justly, &c. Because he says, that the said *A. B.* for a long space of time, to wit, for the space of — next before and ending on the — day of — in the year of our Lord 18—, and from thence until and at the said time when, &c. held and enjoyed the said dwelling-house in which, &c. with the appurtenances, as tenant thereof to the said *C. D.* (or, "*G. N.*") by virtue of a certain demise thereof to him the said *A. B.* theretofore made, at and under a certain yearly rent, to wit, the yearly rent of —*l.* payable quarterly, on the — day of —, (&c.) in every year, by even and equal portions: And because —*l.* of the rent aforesaid, for the said space of — ending as aforesaid, on the said — day of — in the year aforesaid, and from thence until and at the said time when, &c. were due and in arrear from the said *A. B.* to the said *C. D.* (or, "*G. N.*") he the said *C. D.* well avows (or, "as bailiff of the said *G. N.* well acknowledges") the taking of the said goods and chattels, in the said dwelling-house in which, &c. and justly, &c. as for and in the name of a distress for the said rent so due and in arrear as aforesaid; and which said rent still remains due and in arrear to the the said *C. D.* (or, "*G. N.*") And this he the said *C. D.* is ready to verify, wherefore he prays judgment, and a return of the said goods and chattels, together with his damages, &c. according to the form of the statute in such case made and provided, to be adjudged to him, &c.

If part of the rent has been satisfied, say: "And because —*l.* parcel of the sum of —*l.* of the rent aforesaid, for the said space of — ending as aforesaid, on the said — day of — in the year aforesaid, and from thence until and at the said time when, &c. were due and in arrear from the said *A. B.* to the said *C. D.* (or, "*G. N.*") the residue of the said sum of —*l.* of the rent aforesaid having been before then paid and satisfied, he the said *C. D.* well avows, (&c.) for the said sum of —*l.* parcel, &c. so due and in arrear as aforesaid; and which said sum of —*l.* parcel, &c. still remains due, &c." (as before).

A. B.

A. B. } And the said *A. B.* saith that the said *C. D.* by rea-
 v. } son of any thing in his said avowry (or "cognizance")
C. D. } above alledged, ought not to avow (or, "as bailiff of the
 said *G. N.* to acknowledge") the taking of the said goods and
 chattels in the said declaration mentioned, in the said dwelling
 house in which, &c. and justly, &c. Because he says, that he the
 said *A. B.* did not hold or enjoy the said dwelling house in which,
 &c. with the appurtenances, as tenant thereof to the said *C. D.*
 (or, "the said *G. N.*") under the supposed demise thereof in
 the said avowry (or "cognizance") mentioned, in manner
 and form as the said *C. D.* hath above in his said avowry (or
 "cognizance") in that behalf alledged: And this he the said
A. B. prays may be inquired of by the country, &c. And for
 a further plea in this behalf, the said *A. B.* by leave of the
 court here for this purpose first had and obtained, according
 to the form of the statute in such case made and provided,
 saith that the said *C. D.* by reason of any thing in his said
 avowry (or "cognizance") above alledged, ought not to
 avow (or, "as bailiff of the said *G. N.* to acknowledge") the
 taking of the said goods and chattels, in the said dwelling-
 house in which, &c. and justly, &c. Because he says, that
 no part of the said supposed rent in the said avowry (or "cog-
 nizance") mentioned, was or is in arrear from the said *A. B.*
 to the said *C. D.* (or "*G. N.*") in manner and form as the
 said *C. D.* hath above in his said avowry (or "cognizance")
 in that behalf alledged: And this he the said *A. B.* also prays
 may be inquired of by the country, &c.

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(§ 53.)

Pleas in bar
 thereto, viz.
 1st, non tenuit,
 and 2ndly, no
 rent in arrear.

(Entry of warrants of attorney for both parties, in K. B.
 as before, p. 689.)

— (to wit.) *C. D.* was summoned to answer unto *A. B.* of
 a plea, &c. (here copy the declaration, and avowry or cogni-
 zance, and proceed as follows:)

And upon this the said *C. D.* prays that the said *A. B.* may
 plead in bar of the said avowry (or "cognizance"); and
 thereupon a day is given to the said *A. B.* before the lord the
 king, until ~~where~~ wheresoever the said lord the king shall then
 be in *England*, (or in C. P. "a day is given here to the said
A. B. until —,") that is to say, for him the said *A. B.* to
 plead in bar of the said avowry, (or "cognizance,") &c.; the
 same day is given to the said *C. D.* &c. At which day, be-
 fore

(§ 53.)

Judgment for
 the defendant,
 for a return,
 &c. on a non-
 pros for want of
 a plea in bar,
 at common
 law; with
 award of *retorno
 habendo*, and
 writ of inquiry
 of damages.

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XLII.Judgment
signed, (&c.)

fore the said lord the king at *Westminster*, comes (or in C. P. "At which day comes here,") the said *C. D.* by his attorney aforesaid, and offers himself against the said *A. B.* in the plea aforesaid; but the said *A. B.* although solemnly called, comes not, but makes default, nor hath he pleaded in bar of the said avowry (or "cognizance"), nor does he further prosecute his writ against the said *C. D.* Therefore it is considered, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. and that he have a return of the cattle goods and chattels aforesaid, &c. And it is further considered, that the said *C. D.* ought to recover against the said *A. B.* his damages on occasion of the premises, according to the form of the statute, &c. Therefore it is commanded to the sheriff, that without delay he cause the cattle goods and chattels aforesaid to be returned to the said *C. D.*; and that he do not deliver them, on the complaint of the said *A. B.* without the writ of the said lord the king, which shall make execution of the judgment aforesaid: And in what manner he shall execute the writ of the said lord the king, he shall certify to the said lord the king, on — whosoever, &c. in C. P. "to the justices here, on —." It is also commanded to the sheriff, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what damages the said *C. D.* hath sustained, as well on occasion of the premises, according to the form of the statute in such case made and provided, as for his costs and charges by him laid out about his defence in this behalf; and that the inquisition which the said sheriff shall thereupon take, he make appear to the said lord the king, at the time aforesaid, wheresoever, &c. (or in C. P. "to the justices here, at the time aforesaid,") under his seal, and the seals of those by whose oath he shall take that inquisition; and that he have there the names of those by whose oath he shall take that inquisition, together with the writ of the said lord the king to him thereupon directed; the same day is given to the said *C. D.* &c.

(§ 14.)
The writ with
a remission
damna.

(After the judgment for a return, proceed as follows.) And hereupon the said *C. D.* freely and without compulsion to the said *A. B.* his damages aforesaid; therefore let the said *A. B.* be acquitted

acquitted thereof: And it is further considered by his majesty's court here, that the said *C. D.* do recover against the said *A. P.* — *I.* for his costs and charges, &c. (as before, p. 685)

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XLII.

(Entry of warrants of attorney for both parties, in K. B. as before, p. 689.)

— (to wit) *C. D.* was summoned to answer unto *A. B.* of a plea, &c. (here copy the declaration, and avowry or cognizance, and proceed as follows:)

(§ 55)
The like, for the arrears of rent, &c. on stat 17 Car II c 7 § 2 on a non-prov. for want of a plea in bar.

And upon this the said *C. D.* prays that the said *A. B.* may plead in bar of the said avowry (or "cognizance"), &c. (as before, p. 693. to the end of the judgment for a return, and then as follows:) And hereupon the said *C. D.* according to the form of the statute in such case made and provided, prays the writ, &c. (as before, p. 686. to the end.)

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* was summoned to be in our court before us, (or in C. P. "before our justices at Westminster,") to answer *A. B.* of a plea wherein the said *C. D.* on — at — in your county, in a certain place there called —, took the cattle goods and chattels of the said *A. B.* to wit, (set out the cattle and goods mentioned in the declaration,) and unjustly detained them against gages and pledges, until, &c. And the said *C. D.* appearing in our said court before us, (or in C. P. "before our said justices,") at Westminster aforesaid, by — his attorney, well avowed (or, "as bailiff of *G. N.* well acknowledged") the taking of the said cattle goods and chattels, &c. (here recite the whole of the avowry or cognizance, and proceed as follows.) And such proceedings were thereupon had in our said court before us, (or in C. P. "before our said justices,") at Westminster aforesaid, that it was afterwards considered in the same court, that the said *A. B.* should take nothing by his writ aforesaid, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the said cattle goods and chattels, &c. And thereupon the said *C. D.* according to the form of the statute in such case made and provided, prayed our writ, &c. (as before, p. 686. to the end.)

(§ 56)
Writ inquiry thereon, a K B

(Entry

CHAP.

XLII.

(§ 57)

Judgment for
the defendant,
for a t. t. uin,
&c. on demur-
rer to a plea in
bar, at com-
mon law.

Judgment
signed, (&c.)

(Entry of warrants of attorney for both parties, in K. B. as before, p. 689. ; and after entering the proceedings, to the end of the demurrer-book, go on as follows :) At which day, before our said lord the king at *Westminster*, come (or in C. P. "At which day come here,") the parties aforesaid, by their attornies aforesaid, whereupon all and singular the premises being seen, and by the court of our said lord the king now here (or in C. P. "by the justices here") fully understood, and mature deliberation being thereupon had, it appears to the said court (or "justices") here, that the said plea of the said *A. B.* by him above pleaded in bar of the avowry (or "cognizance") aforesaid, and the matters therein contained, are not sufficient in law to bar the said *C. D.* from avowing (or, "acknowledging") the taking of the said cattle goods and chattels, in the said place in which, &c. to be just, as the said *C. D.* hath above alledged : Therefore it is considered, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. and that he have a return of the cattle goods and chattels aforesaid, to hold to him irreplevisable for ever ; and that he ought to recover against the said *A. B.* his damages on occasion of the premises, according to the form of the statute, &c. Therefore it is commanded to the heriff, that without delay he cause the cattle goods and chattels aforesaid to be returned to the said *C. D.* to hold to him irreplevisable, in form aforesaid : And in what manner, &c. (as before, p. 694.)

(§ 58.)

The like, for
the arrears of
rent, &c. on
stat. 17 Car. II.
c. 7. § 2.

(Entry of warrants of attorney for both parties, in K. B. as before, p. 689. ; and after entering the proceedings, to the end of the demurrer-book, proceed as follows .)

At which day, before our said lord the king at *Westminster*, came (or in C. P. "At which day came here,") the parties aforesaid, by their attornies aforesaid ; and hereupon all and singular the premises being seen, &c. 'as in the last, to the word "alledged :") Therefore it is considered, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. And hereupon the said *C. D.* according to the form of the statute in such case made and provided, prays the writ of our said lord the king, to be directed

rected to the sheriff of the said county of —, to inquire of the value of the cattle goods and chattels aforesaid: Therefore the sheriff is commanded, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire, how much the said cattle goods and chattels were worth, at the time of taking the same, according to their true value: and that the inquisition, which the said sheriff shall thereupon take, he make appear, &c. (as before, p. 686, 7. making the jury find “that the said cattle goods and chattels, at the time of taking the same, were worth —*l.* according to their true value.”)

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XLII.

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* was summoned to be in our court before us, (or in C. P. “before our justices at *Westminster*,”) to answer *A. B.* of a plea wherefore the said *C. D.* on — at —, in a certain place there called —, took the cattle goods and chattels of the said *A. B.* to wit, (&c.) and unjustly detained them against gages and pledges, until, &c. And the said *C. D.* appearing in our said court before us, (or in C. P. “before our said justices,”) at *Westminster*, by — his attorney, well avowed (or “as bailiff of *E. F.* well acknowledged”) the taking of the said cattle goods and chattels, &c. (reciting the avowry or cognizance, plea in bar, demurrer and joinder:) And such proceedings were thereupon had in our said court before us, (or in C. P. “before our said justices,”) that it was afterwards considered by the same court, that the said plea of the said *C. D.* by him above pleaded in bar of the avowry (or “cognizance”) aforesaid, and the matters therein contained, were not sufficient in law, &c. (as in the last but one:) It was also considered by the same court, that the said *A. B.* should take nothing by his writ aforesaid, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. and that he ought to recover against the said *A. B.* his damages on occasion of the premises, according to the form of the statute in such case made and provided: But because it is unknown, &c. (as before, p. 235, 6. making the writ to inquire “what damages the said *C. D.* hath sustained, as well on occasion of the premises, according to the form of the statute, (&c.) as for his costs and charges by him laid out about his defence in this behalf;”

(§ 59.)
Writ of inquiry
of damages, on
judgment for a
return, &c. at
common law,
on demurrer to
a plea in bar.

CHAP. XLII. behalf;" and concluding the writ as by *original*, in K B for which *vide ante*, p 236. and in C P. as before, p. 237.)

(§ 60)

The like, to ascertain the value of goods, on stat. 17 Car. II. c. 7 § 2

George the Third, (&c.) To the sheriff of — greeting :
Whereas *C. D* was summoned, &c. (as in the last, to the end of the declaration) And the said *C. D.* appearing in our said court before us, (or in C. P. "before our said justices") at *Westminster*, by — his attorney, well avowed (or, "as bailiff of *E. F.* well acknowledged") the taking of the said cattle goods and chattels, &c (reciting the avowry or cognizance, plea in bar, demurrer and joinder) And such proceedings were thereupon had in our said court before us, (or in C. P. "before our said justices,") at *Westminster* aforesaid, that it was afterwards considered by the same court, that the said plea of the said *C. D.* by him above pleaded in bar of the avowry (or "cognizance") aforesaid, and the matters therein contained, were not sufficient in law, &c. (as before, p 690. It was also considered by the same court, that the said *A. B.* should take nothing by his writ, &c. but that he and his pledges to prosecute should be satisfied, &c. and that the said *C. D* should go thereof without charge, &c. and that he should have a return of the said cattle goods and chattels, &c. And thereupon the said *C. D.* according to the form of the statute in such case made and provided, prayed our writ, to be directed to you, to inquire of the value of the cattle goods and chattels aforesaid, and it was granted to him, &c. as by the record and proceedings thereof, still remaining in our said court before us, (or in C P. "before our said justice,") at *Westminster* aforesaid, fully appears : Therefore we command you, that according to the form of the statute in such case made and provided, you diligently inquire, by the oath of twelve good and lawful men of your bailwick, how much the said cattle goods and chattels were worth, at the time of taking the same, according to their true value, and the inquisition which you shall thereupon take, make appear, &c. (as before, p. 688)

(§ 61)

Notice of inquiry, on stat. 17 Car. II. c. 7. § 2

In the King's Bench,

(or Common Pleas.)

A. B. against C. D.

Take notice, that a writ of inquiry will be executed in this cause, on — (at the distance of fifteen days at least,) &c.

—, (as

—, (as before, p. 240.) touching the sum in arrear, at the time of the distress taken, and the value of the goods (or "cattle") distrained, (or on demurrer, "of the value of the distress,") according to the form of the statute in such case made and provided. Dated, (&c.)

Your's, &c.

E. F. plaintiff's attorney,
(or agent.)

To Mr. G. H. defendant's attorney, (&c.)

— (to wit) An inquisition indented, taken at —, &c. (as before, p. 212. to "honest and lawful men of the said county," and then as follows.) who upon their oath say, that the sum of —*l.* of the yearly rent in the said writ mentioned, was in arrear and unpaid from the said A. B. to the said C. D. at the time of taking and distraining the cattle goods and chattels in the said writ also mentioned; and that the said cattle goods and chattels were then worth, according to their true value, the sum of —*l.* (or, on demurrer, "that the cattle goods and chattels in the said writ mentioned were worth, at the time of taking the same, according to their true value, the sum of —*l.*") In witness whereof, as well I the said sheriff, as the said jurors, have set our seals to this inquisition, the day and year, and at the place above written.

The execution of this writ appears in the inquisition hereto annexed.

The answer of — sheriff.

In the King's Bench,
(or Common Pleas.)

(§ 63)
Issue, in K. B.
or C. P.

— term, (the term of which the declaration is intitled,) in the — year of the reign of king George the third.

— (to wit) C. D. was summoned to answer A. B. &c. (as in the declaration, to the end)

And the said C. D. by G. H. his attorney, comes and defends the wrong and injury, when, &c. (copying the pleadings :) Therefore it is commanded to the sheriff, that he cause to come before our lord the king, on — wheresoever our said lord the king shall then be in England, (or in C. P. "that he

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XLII.

he cause to come here, on —,") twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. ; the same day is given to the parties aforesaid, &c. (omitting the *dies datus*, in C. P.)

The jury-process and record of *nisi prius* in replevin, are the same as in other cases, except that the plea or action is described as "a plea of taking and unjustly detaining the cattle goods and chattels of the said *A. B.*"

(§ 64.)
Plea for the
plaintiff, on non
cepit.

Afterwards, &c. (as before, p. 359. to the words "tried and sworn," and then as follows:—say upon their oath, that the said *C. D.* did take the within-mentioned cattle goods and chattels, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages, &c. (as before, p. 368. § 22.)

(§ 65.)
The like, for
the defendant,
on several is-
sues.

— as to the first issue within joined between the parties aforesaid, upon their oath say, that the said *A. B.* held and enjoyed the within-mentioned dwelling-house or dwelling-house and premises with the appurtenances, as tenant thereof to the said *C. D.* by virtue of the within-mentioned demise, as the said *C. D.* hath within in his avowry (or "cognizance") in that behalf alledged: And as to the last issue within joined between the parties aforesaid, the jurors aforesaid upon their oath aforesaid say, that at the time in that behalf within-mentioned, the rent within specified was in arrear and unpaid from the said *A. B.* to the said *C. D.* as the said *C. D.* hath within in his said avowry (or "cognizance") in that behalf alledged: And they assess the damages, (&c.) Therefore, &c.

(§ 66.)
The like, in the
sheriff's court
of London.

— at a husting of Common Pleas, holden in the *Guild-hall* of the city of *London*, according to the custom of the said city, on — next after the feast of — in the — year of the reign of his present majesty king *George* the third, come as well the said plaintiff as the said defendant, by their respective attornies aforesaid; and the jurors of the jury aforesaid being solemnly called, twelve of them, that is to say, *I. K.* (&c.) appeared; who being elected tried and sworn upon the said jury, according to the custom of the said city, to declare the truth of and concerning the premises, and to try the

the issues joined between the said parties in the plea aforesaid, for their verdict, as to the first issue joined between the said parties, upon their oath say, that the said plaintiff held and enjoyed the said dwelling-house and premises in which, &c. with the appurtenances, as tenant thereof to the said defendant, by virtue of a demise thereof to him the said plaintiff theretofore made, at and under the yearly rent of —£. payable quarterly, on (&c.) in every year, in manner and form as the said defendant hath in his said first avowry above alledged : And as to the second issue joined between the said parties, the jurors aforesaid upon their oath say, &c. (a similar finding to the above, on the second issue.) And as to the third issue joined between the said parties, the jurors aforesaid upon their oath say, that at the time in the said last avowry in that behalf mentioned, the sum of —£. of the rent by the said last avowry alledged to be in arrear, over and above the said —£. part thereof, was in arrear and unpaid to the said defendant, in manner and form as the said defendant hath in his said last avowry above supposed : And as to the fourth issue joined between the said parties, the jurors aforesaid upon their oath say, that the said plaintiff did not tender or offer to pay to the said defendant, the said —£. residue of the rent in the said last avowry mentioned, in manner and form as the said plaintiff hath above in his said second plea to the said last avowry in that behalf alledged : And as to the last issue joined between the said parties, the jurors aforesaid upon their oath say, that the said plaintiff did pay to the said L. M. the said —£. of the rent in the said last avowry mentioned, in manner and form as the said plaintiff hath above in his said last plea to the said last avowry in that behalf alledged : And the said jurors, according to the form of the statute in such case made and provided, do assess the damages of the said defendant, on occasion of the premises, besides his costs and charges by him about his suit in that behalf expended, to — and for those costs and charges to —. Therefore, &c.

(As in the two last, to the end of the finding upon the issues, and then as follows :) And the jurors aforesaid, at the prayer of the said C. D. according to the form of the statute in such case made and provided, having proceeded to inquire concerning

(§ 67.)
The like, on
stat. 17 Car II.
c. 7. § 2.

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cerning the sum of the arrears of the rent within specified, and the value of the cattle, goods and chattels distrained, upon their oath aforesaid say, that the sum of such arrears was —*l.* and that the cattle goods and chattels distrained were of the true value of —*l.* Therefore, &c.

(§ 68.)
Judgment for
the defendant,
for a return,
&c. on a ver-
dict, at com-
mon law.

(To the end of the *postea*, and then as follows :) Therefore it is considered, that the said *A. B.* take nothing by his writ aforesaid, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. and that he have a return of the cattle goods and chattels aforesaid, to hold to him irreplevisable for ever : And it is further considered, that the said *C. D.* do recover against the said *A. B.* his damages aforesaid, by the jury aforesaid in form aforesaid assessed, and also —*l.* for his costs and charges aforesaid, by the court of our said lord the king now here adjudged of increase to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided ; which said damages and charges in the whole amount to —*l.* ; and the said *A. B.* in mercy, &c.

Mercy.

(§ 69.)
The like, in the
sheriff's court
of London, with
a continuance
by *curia advisari
out.*

(To the end of the *postea*, and then as follows :) But because the court now here is not yet advised what judgment to give of and concerning the premises, a day is therefore given to the said parties, to be and appear at the next husting of Common Pleas, to be holden, &c. to hear the judgment of the court thereupon : And afterwards, to wit, at a husting of Common Pleas, holden on — next after — in the — year aforesaid, the said parties, by their attornies aforesaid, appear ; and the said defendant prays the judgment of the court, of and upon the said verdict : And thereupon, at the same husting, it is considered and adjudged by the court here, that the said plaintiff take nothing by his plaint aforesaid, but that he and his pledges to prosecute be in mercy, &c. and that the said defendant do go thereof without day, &c. and that he have a return of the goods and chattels aforesaid, to hold to him irreplevisable for ever : And it is further considered by the court here, that the said defendant do recover against the said plaintiff, the said damages assessed by the jurors aforesaid in form aforesaid, and also —*l.* for his costs and charges aforesaid, by the court here adjudged of increase

increase to the said defendant, and with his assent, according to the form of the statute in such case made and provided; which said damages costs and charges in the whole amount to —*l.* And thereupon the said defendant, by his attorney aforesaid, prays as well execution of his damages costs and charges aforesaid, as process for the return of the said goods and chattels; which is granted to him, &c.

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XLII.

(To the end of the *postea*, and then as follows :) There-
fore it is considered, that the said *A. B.* take nothing by his writ aforesaid, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. It is also considered, that the said *C. D.* do recover against the said *A. B.* the said —*l.* being the sum of the arrears aforesaid, in form aforesaid assessed, and also —*l.* by the court of our said lord the king now here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided, for his costs and charges by him laid out about his defence in this behalf; which said arrears costs and charges in the whole amount to —*l.*; and that the said *C. D.* have execution thereof, &c.

(§ 70.)
The like, for the arrears of rent, &c. on a nonsuit or verdict, on stat. 17 Car. II. c. 7. § 2.

George the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made —*l.* which *A. B.* lately in our court before us, (or in C. P. “before our justices”) at *Westminster*, recovered against him, for his damages which he had sustained, as well on occasion of the taking and unjustly detaining of the cattle goods and chattels of the said *A. B.* as for his costs and charges by him about his suit in that behalf expended; (or in C. P. “for his damages,” &c. omitting the costs;) whereof the said *C. D.* is convicted, &c. (as before, p. 405. in K. B. or p. 406. in C. P.)

(§ 71.)
Fieri facias for the plaintiff.

George the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and chattels of *A. B.* in your bailiwick, you cause to be made —*l.* which *C. D.* lately in our court before us, (or in C. P. “before our justices”) at *Westminster*, recovered against him, for certain arrears of rent, according to the form of the statute in such

(§ 72.)
The like, for defendant, on stat. 17 Car. II. c. 7. for the arrears of rent, &c.

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XLII.

such case made and provided ; and also — *l.* which in our same court before us (omitting “before us,” in C. P.) were adjudged to the said *C. D.* for his costs and charges by him laid out about his defence in a certain action of replevin, lately commenced and depending in the same court, at the suit of the said *A. B.* against the said *C. D.* ; whereof the said *A. B.* is convicted, as appears to us of record (omitting the latter words, in C. P.) : And have the said monies before us, on — wheresoever we shall then be in *England*, (or in C. P. “before our said justices at *Westminster* aforesaid, on —,”) to be rendered to the said *C. D.* for the arrearages of rent, and costs and charges aforesaid ; and have there this writ. Witness, (&c.)

(§ 73.)
The like, for
the value of the
cattle or goods
distrained, &c.

George the Third, (&c.) To the sheriff of — greeting : We command you, that of the goods and chattels of *A. B.* in your bailiwick, you cause to be made — *l.* which *C. D.* lately in our court before us, (or in C. P. “before our justices”) at *Westminster*, recovered against him, for the value of certain cattle, (or, “goods and chattels,”) distrained by the said *C. D.* for certain arrearages of rent, &c. (as in the last.)

(§ 74.)
Retorno habendo, on a non-
pros for want
of a declara-
tion.

George the Third, (&c.) To the sheriff of — greeting : Whereas *C. D.* was summoned to be in our court before us, (or in C. P. “before our justices at *Westminster*,”) to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, &c. as it was said : And the said *A. B.* afterwards in our same court before us, (omitting “before us” in C. P.) made default ; wherefore it was considered in our same court, that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the said cattle goods and chattels, &c. Therefore we command you, that without delay you cause the said cattle goods and chattels to be returned to the said *C. D.* and that you do not deliver them, on the complaint of the said *A. B.* without our writ, which shall make express mention of the judgment aforesaid ; and in what manner you shall execute this our writ, make appear to us, on — wheresoever we shall then be

be in *England*, (or in C. P. "to our justices at *Westminster*, on —,") and have there this writ. Witness, (&c.)

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— (to wit.) *C. D.* by his attorney offered himself on the fourth day against *A. B.* of a plea wherefore he the said *C. D.* took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, &c. And the said *A. B.* being solemnly called, came not; and was the plaintiff, &c. : Therefore it is considered, that he and his pledges to prosecute be thereupon in mercy, &c. and that the said *C. D.* do go thereof without day, &c. and that he have a return of the said cattle goods and chattels, &c. and let the names of the pledges be inquired, &c. And in what manner, &c. let the sheriff make appear to the lord the king, on — wheresoever, &c. (or in C. P. "to the justices here, on —," &c.)

(§ 75)
Entry thereof.

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* was ~~admitted~~ to be in our court before us, (or in C. P. "before our justices at *Westminster*,") to answer *A. B.* of a plea wherefore the said *C. D.* on the — day of — in the year of our Lord 18—, at the parish of — in your county, in a certain place there called —, took the cattle goods and chattels of him the said *A. B.* to wit, &c. (here set out the cattle and goods, as in the declaration,) and unjustly detained them against gages and pledges, until, &c. as it was said: And the said *C. D.* appearing in our said court before us, (or in C. P. "before our said justices,") for a certain reason by him alledged in our same court, as bailiff of *E. F.* well acknowledged the taking of the said cattle goods and chattels, in the said place in which, &c. and justly, &c. for damage there done, (or, "for certain arrears of rent, to wit, for the sum of —*l.* due and in arrear from the said *A. B.* to the said *C. D.* for the said place in which, &c. with the appurtenances, held and enjoyed under and by virtue of a certain demise thereof, made by the said *C. D.* for the space of — next before and ending on the — day of — in the year of our Lord 18—"): Whereupon the said *A. B.* being afterwards solemnly called in our said court before us, (or in C. P. "before our said justices,") came not, nor did he further prosecute his writ aforesaid; wherefore it was con-

(§ 76)
Retorno habendo, on non-pros for want of a plea in bar

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sidered in our said court, that the said *A. B.* should take nothing by his writ aforesaid, but that he and his pledges to prosecute should be in mērcy, &c. and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the said cattle goods and chattels, &c. Therefore we command you, that without delay you cause the said cattle goods and chattels to be returned to the said *C. D.*; and that you do not deliver them, on the compl int of the said *A. B.* without our writ, which makes express mention of the judgment aforesaid; and in what manner you shall have executed this our writ, make appear to us, on — wheresoever, (&c.) (or in C. P. “to our said justices at *Westminster* aforesaid, on —,”) and have there this writ. Witness, (&c.)

(§ 77)
It is like, on
demurrer to a
plea in bar, and
writ of inquiry
of damages.

George the Third, (&c.) To the sheriff of — greeting:
Whereas *C. D.* was summoned to be in our court, &c. (as in the last.) And the said *C. D.* appearing in our said court before us, (or in C. P. “before our said justices,”) well avowed, (or, “as bailiff of *E. F.* well acknowledged,”) &c. (reciting the avowry or cognizance, and the demurrer and joinder.) And such proceedings were had in our said court before us, (or in C. P. “before our said justices,”) that it was afterwards considered by the same court, that the plea aforesaid, by him the said *A. B.* above pleaded in bar of the said avowry (or “cognizance,”) and the matters therein contained, were not sufficient in law, &c. (as before, p. 696.) It was also considered by the same court, that the said *A. B.* should take nothing by his said writ, &c. (as before, p. 696.) Therefore we command you, that without delay you cause the cattle goods and chattels aforesaid to be returned to the said *C. D.* to hold to him irrevocable, in form aforesaid; and in what manner you shall execute this our writ, make appear to us, on — wheresoever, &c. (or in C. P. “to our said justices at *Westminster* aforesaid, on —.”) We likewise command you, that by the oath of twelve good and lawful men of your bailiwick, you diligently inquire, according to the form of the statute in such case made and provided, what damages the said *C. D.* hath sustained, as well on occasion of the premises, as for his costs and charges by him laid out about his defence in this behalf; (or in C. P. “on occasion of the premises,” omitting the costs;) and the inquisition which you shall

shall thereupon take, make appear to us, on the aforesaid day, wheresoever, &c. (or in C. P. “to our said justices at *Westminster* aforesaid, on —,”) under your seal, and the seals of those by whose oath you shall take that inquisition; and have there the names of those by whose oath you shall take that inquisition, and this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of — greeting :
Whereas *C. D.* was summoned to be in our court, &c. (as in the last but one) And the said *C. D.* appearing in our said court before us, (or in C. P. “before our said justices,”) alledged and said, that he as bailiff of *E. F.* took the cattle goods and chattels aforesaid, in the said place in which, &c. being the soil and freehold of the said *E. F.* doing damage there; and the said *C. D.* prayed a return of the said cattle goods and chattels to be adjudged to him, &c. And afterwards, by a certain jury of the country, upon which as well the said *C. D.* as the said *A. B.* had put themselves in that behalf, taken on the — day of — — year of our reign, at — in your county, before ~~the~~ *Lord Ellenborough*, our chief-justice, (&c.) by virtue of our writ of *nisi prius*, it was found, that the said place in which, &c. at the said time when, &c. was the soil and freehold of the said *E. F.* as the said *C. D.* had alledged; and the jurors of the said jury, according to the form of the statute in such case made and provided, assessed the damages of the said *C. D.* on occasion of the premises, besides his costs and charges by him laid out about his defence in this behalf, to —*l.* and for those costs and charges to —*l.* Whereupon it was afterwards considered, in our said court before us, (or in C. P. “before our said justices,”) that the said *A. B.* should take nothing by his writ aforesaid, &c. (reciting the judgment, *ante*, p. 702.) Therefore we command you, that without delay you cause the cattle goods and chattels aforesaid to be returned to the said *C. D.* to hold to him irreprieveable, in form aforesaid; and in what manner you shall execute this our writ, make appear to us, on — wheresoever, &c. (or in C. P. “to our said justices at *Westminster* aforesaid, on —.”) We also command you, that of the goods and chattels of the said *A. B.* in your bailiwick, you cause to be made the said —*l.* for the damages costs and charges aforesaid; and have that money

(§ 78)
The like, after
verdict, and *n.*
fa. for the da-
mages and
costs.

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before us, (or in C. P. "before our said justices at *Westminster* aforesaid,") at the aforesaid time, to render to the said *C. D.* for his damages costs and charges aforesaid; and have there this writ. Witness, (&c.)

(§ 79.)
Return of *eloign-*
gata, to writ,
or precept, of
retorno habendo.

Before the coming of this writ (or "precept") to me, the cattle goods and chattels within-mentioned were eloigned, and removed by the within-named *A. B.* to places to me unknown: Therefore I cannot cause the same to be returned to the within-named *C. D.* as I am within commanded.

The answer of — sheriff,
(or "bailiff.")

(§ 80.)
(*opus in reu-*
nam the reon,
after judgment
of non-pros for
want of a de-
claration.

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* was summoned to be in our court before us, (or in C. P. "before our justices at *Westminster*,"") to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, &c. And the said *A. B.* afterwards in our same court before us, (omitting "in C. P.") made default; wherefore it was considered that the said *A. B.* should take nothing by his writ aforesaid, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the cattle goods and chattels aforesaid, &c. Whereupon by our writ we commanded you, that without delay you should cause the cattle goods and chattels aforesaid to be returned to the said *C. D.*; and that you should not deliver them, on the complaint of the said *A. B.* without our writ, which should make express mention of the judgment aforesaid; and in what manner you should have executed that our writ, you should make appear to us, on — wheresoever, &c. (or in C. P. "to our said justices at *Westminster* aforesaid, on —.") And you at that day returned to us, that before the coming of the writ aforesaid, the cattle goods and chattels aforesaid were eloigned and removed by the said *A. B.* to places to you unknown, so that you could not cause them to be returned to the said *C. D.* as by the said writ you were commanded. Therefore we command you, that you take in *wuthernam*, the cattle goods and chattels of the said *A. B.* to the value of the cattle goods and chattels aforesaid; by the
said

said *C. D.* before taken, and cause them to be delivered to the said *C. D.* to be kept by him, until you can cause to be returned the said cattle goods and chattels, by the said *C. D.* before taken : And put by gages and safe pledges the said *A. B.* that he be before us, on ——— wheresoever we shall then be in *England*, (or in *C. P.* “before our said justices at *Westminster* aforesaid, on ———,”) to answer as well to us for his contempt, as to the said *C. D.* for the damages and injury to him in that behalf done : And in what manner you shall have executed this our writ, make appear to us, (or in *C. P.* “to our said justices at *Westminster*,”) at the aforesaid time ; and have there the names, of the pledges, and this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of ——— greeting : (§ 81.)
Whereas *C. D.* was summoned to be in our court, &c. (as before, p. 705.) And the said *C. D.* appearing in our same court before us, (or in *C. P.* “before our said justices,”) for a certain reason by him alleged in the same court, well avowed the taking of the said cattle goods and chattels, in the said place in which, &c. and justly, &c. for damage there done : And the said *A. B.* afterwards in our same court, made default ; wherefore it was considered by the same court, that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the said cattle goods and chattels, &c. Therefore we lately commanded you, that without delay you should cause the cattle goods and chattels aforesaid to be returned to the said *C. D.* ; and that you should not deliver them, on the complaint of the said *A. B.* without our writ, which should make express mention of the judgment aforesaid ; and in what manner you should have executed that our writ, you should make appear to us, on ——— wheresoever, &c. (or in *C. P.* “to our said justices at *Westminster* aforesaid, on ———.”) We also lately commanded you, that according to the form of the statute in such case made and provided, you should diligently inquire, by the oath of good and lawful men of your bailiwick, what damages the said *C. D.* had sustained, as well on occasion of the premises, as for his costs and charges by him laid out about his defence in this behalf ; and that the inquisition which you should thereupon

The like, for want of a plea in bar, and *ca. sa.* for the damages and cost.

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thereupon take, you should send to us, (or in C. P. "to our said justices at *Westminster*,") at the time aforesaid, wheresoever, (&c.) under your seal, (&c.) together with the writ aforesaid: And you at that day returned to us, (or in C. P. "to our said justices at *Westminster* aforesaid,") that the cattle goods and chattels aforesaid were eloiigned and removed by the said *A. B.* to places to you unknown, so that you could not cause the same to be returned to the said *C. D.*; and you also returned to us, (or in C. P. "to our said justices,") a certain inquisition taken before you, at — in your county, on the — day of — in the — year, (&c.) by which it was found, that the said *C. D.* had sustained damages, on occasion of the premises, besides his costs and charges, (&c.) to — *l.* and for those costs and charges to — *l.* Therefore it was considered, that the said *C. D.* should recover against the said *A. B.* his damages aforesaid, by the said inquisition in form aforesaid found, and also — *l.* by our court before us adjudged of increase to the said *C. D.* and with his assent, for his costs and charges aforesaid, and such said damages costs and charges in the whole amount to — *l.* and that the said *A. B.* should be in mercy, &c. Therefore we command you, that you take in *withernam*, the cattle goods and chattels of the said *A. B.* in your bailiwick, to the value of the cattle goods and chattels before taken, and cause them to be delivered without delay to the said *C. D.* to hold to him irreplevisable, until the said *A. B.* shall make return to the said *C. D.* of the cattle goods and chattels aforesaid, before taken; and in what manner you shall execute this our writ, make appear to us, on — wheresoever, &c. (or in C. P. "to our said justices at *Westminster* aforesaid, on —.") We also command you, that you take the said *A. B.* if he be found in your bailiwick, and him safely keep, so that you may have his body before us, at the aforesaid time, wheresoever, &c. (or in C. P. "before our said justices at *Westminster*,") to satisfy the said *C. D.* of his damages costs and charges aforesaid; and have this writ. Witness, (&c.)

(§ 82.)
Scire facias against the
pledges for a
return, after
judgment of

George the Third, (&c.) To the sheriff of — greeting:
Whereas *C. D.* was summoned to be in our court before us,
(or in C. P. "before our justices at *Westminster*,") to answer
A. B.

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non-pres for
want of a de-
claration

A. B. of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, &c.: And afterwards, the said *A. B.* in our same court made default; wherefore it was considered, that the said *C. D.* should go thereof without day, &c. and that the said *A. B.* and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should have a return of the cattle goods and chattels aforesaid, &c. And thereupon we commanded you, as oftentimes before you were commanded, that without delay you should cause the cattle goods and chattels aforesaid to be returned to the said *C. D.* and not deliver them, on the complaint of the said *A. B.* without our writ, which should make express mention of the judgment aforesaid, according to the tenor of our mandates to you thereupon before directed, or that you should be yourself before us, on — last past, wheresoever, &c. (or, in C. P. “before our said justices, on —,”) in your proper person, to shew wherefore you had neglected to execute our mandates to you thereupon so often directed: And you at — returned to us, (or in C. P. “to our said justices at *Westminster* aforesaid,”) that the cattle goods and chattels aforesaid were cloigned by the said *A. B.* from your view, out of your county, so that you could not return the same to the said *C. D.*: And because the said *A. B.* in the county-court of — late sheriff of your county, held at — in and for the said county, and within the jurisdiction of the same court, on — the — day of — in the — year, (&c.) before — and — then freeholders of the said county, and suitors of the same court, complained against the said *C. D.* of a plea of taking and detaining the cattle goods and chattels aforesaid, and then and there found pledges as well to prosecute his said plaint, as to return the cattle goods and chattels aforesaid, or the price thereof, if a return thereof should be adjudged to the said *C. D.* to wit, *W. G.* and *T. S.* according to the form of the statute in such case made and provided; we command you, that by honest and lawful men of your bailiwick, you make known to the said *W. G.* and *T. S.* that they be before us, on — wheresoever we shall then be in *England*, (or, in C. P. “before our said justices at *Westminster* aforesaid, on —,”) to shew if they have or know of any thing to say for themselves, why the price of the cattle goods and chattels aforesaid should not be

CHAP. be made of their lands and chattels in your bailiwick, and
 XLII. rendered to the said *C. D.* according to the form of the statute
 aforesaid, if it shall seem expedient for him so to do; and
 further to do and receive, &c. (as before, p. 529.)

(§ 83.)
 The lik, on a
 plaint levied
 in the sheriff's
 court of *Lon-*
don, and is
 moved into
 K. B. by *certi-*
orari.

George the Third, (&c.) To the sheriffs of London, greeting.
 Whereas at a court holden on the — day of — in the —
 of our reign, before — esquire, then one of the sheriffs of
 the city of *London* aforesaid, in his Compter situate in the
 parish of *Saint Mildred the Virgin* in the *Poultry* of the said
 city, came *A. B.* and then and there, according to the custom
 of the said city, levied against *C. D.* his certain plaint, for his
 cattle goods and chattels, to wit, (&c.) taken and unjustly de-
 tained; and then and there found pledges to prosecute his
 said plaint, and to make a return of his said cattle goods and
 chattels, if a return thereof should be adjudged, to wit, *V. H.*
 and *E. L.* citizens of the city aforesaid; and thereupon, at
 the prayer of the said *A. B.* to the court aforesaid, according
 to the custom of the said city, the said cattle goods and chattels
 aforesaid were replevied and delivered to the said *A. B.*:
 Which said plaint, with all things touching the same, were
 afterwards sent, and brought by the aforesaid sheriffs of *Lon-*
don, at the instance of the said *A. B.* to the husting of *London*,
 of common pleas, holden in the *Guildhall London*, on —
 next after — in the — year of our reign aforesaid, accord-
 ing to the custom of the said city; and afterwards, to wit, in
 — term in the — year aforesaid, by virtue of our writ, we
 caused the same to be certified before us, and they now re-
 main before us of record: And whereas the said *A. B.* after-
 wards declared in our court before us, against the said *C. D.*
 of a plea wherefore he took the cattle goods and chattels, to wit,
 (&c.) of the said *A. B.* and unjustly detained them against
 gages and pledges, &c.; which said taking of the cattle goods
 and chattels aforesaid, the said *C. D.* acknowledged, as bai-
 liff of one *G. N.* esquire, for certain rent then being in arrear
 and payable by the said *A. B.* to the said *G. N.* as his tenant
 for a term of years: And afterwards, in — term in the —
 year of our reign, it was in such manner proceeded, in our
 said court before us, that the said *A. B.* being solemnly called,
 did not come, nor prosecute his plea against the said *C. D.*;
 wherefore it was considered in our same court before us, that
 the

the said *C. D.* should go thereof without day, &c. and that the said *A. B.* and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should have a return of the cattle goods and chattels aforesaid, &c.; as by the record thereof, now remaining before us, more fully appears: And whereas also by our writ we lately commanded you, that without delay you should cause a return to be made to the said *C. D.* of the cattle goods and chattels aforesaid; and in what manner you should have executed that our writ, you should make appear to us, on — last past, wheresoever we should then be in *England*: And you at that day returned to us, that before the coming of our said last-mentioned writ to you, the said *A. B.* had cloigned the aforesaid cattle goods and chattels, to places to you altogether unknown, so that you could not return the same to the said *C. D.*; as by the aforesaid writ, and the return thereof, affiled in our court before us, appears to us of record: And now on behalf of the said *C. D.* in our court before us, we are informed, that although judgment be thereupon given, yet execution for a return of the cattle goods and chattels aforesaid, still remains to be made: Whereupon the said *C. D.* hath humbly besought us to provide him a proper remedy in this behalf; and we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *V. H.* and *E. L.* that they be before us, on — wheresoever we shall then be in *England*, to shew if they have or know of any thing to say for themselves, wherefore the cattle goods and chattels of them the said *V. H.* and *E. L.* to the value of the cattle goods and chattels aforesaid, so replevied and delivered to the said *A. B.* should not be delivered to the said *C. D.* if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, p: 529.)

(After the judgment for a return, &c. proceed as follows:)

(§ 84)
Award of writ
of second
liverance.

Afterwards, to wit, on — then next following, before the lord the king at *Westminster*, comes (or in C. P. “Afterwards, (&c.) comes here,”) the said *A. B.* by *E. F.* his attorney; and according

CHAP. according to the form of the statute in such case made and
XLII. provided, prays the writ of the said lord the king of second deliverance of the cattle goods and chattels aforesaid; and it is granted to him, returnable on — wheresoever the said lord the king shall then be in *England*, (or in C. P. "returnable here,") the same day is given to the said C. D. &c.

(§ 85)
Writ of second
deliverance

George the Third, (&c.) To the sheriff of — greeting:
If *A. B.* shall make you secure of prosecuting his claim, and also of returning the cattle goods and chattels, which were lately adjudged to *C. D.* in our court before us, (or in C. P. "before our justices at *Westminster*,") on account of the default of the said *A. B.* if a return thereof shall be adjudged, then cause the said cattle goods and chattels to be delivered without delay to the said *A. B.*; and put by gages and safe pledges the said *C. D.* that he be before us, on — wheresoever we shall then be in *England*, (or in C. P. "before our said justices at *Westminster* aforesaid, on —,") to answer to the said *A. B.* of the taking and unjustly detaining of the cattle goods and chattels aforesaid; and have there the names of the pledges, and this writ. I give myself at *Westminster*, the — day of — in the — year of our reign.

(§ 85)
The like, an
other way.

George the Third, (&c.) To the sheriff of — greeting:
If *A. B.* shall make you secure of prosecuting his claim, and also of returning the cattle goods and chattels, which were lately adjudged to *C. D.* in our court before us, (or in C. P. "before our justices at *Westminster*,") on account of the default of the said *A. B.* if a return thereof shall be adjudged; we command you, that if by virtue of our writ of *retorno habendo*, to you thereupon before directed, you have caused the said cattle goods and chattels to be returned to the said *C. D.* then that you cause them to be re-delivered to the said *A. B.*; and put by gages and safe pledges, &c. (as in the last, to the end.)

(§ 85)
Return to writ
of second de-
liverance

By virtue of this writ to me directed, I have caused to be delivered to the within-named *A. B.* the cattle goods and chattels within-mentioned, as I am within-mentioned. The pledges within-mentioned are *John Doe* and *Richard Roe*.

The answer of the sheriff.
— (to wit.)

— (to wit.) *C. D.* was attached, by the writ of our lord the king of second deliverance, to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* &c. (as in the declaration in replevin.)

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XLII.

(§ 88)

Declarat on,
on writ of se-
cond deliver-
ance.

The subsequent proceedings, on the writ of second deliverance, to trial and judgment, are the same as in replevin, only that the judgment is always for a return irreplevisable.

George the Third, (&c.) To the sheriff of — greeting :
Whereas *C. D.* lately in our court before us (or, in C. P. “before our justices”) at *Westminster*, was attached, by our writ of second deliverance, to answer *A. B.* of a plea wherefore he took the cattle goods and chattels, to wit, (&c.) of the said *A. B.* and unjustly detained them against gages and pledges, &c. : And afterwards the said *A. B.* in our same court, made default ; wherefore it was considered in our same court, that the said *A. B.* should take nothing by his said writ, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the cattle goods and chattels aforesaid to hold to him irreplevisable for ever. Therefore we command you, that without delay you cause the cattle goods and chattels aforesaid to be returned to the said *C. D.* to hold to him irreplevisable, in form aforesaid : We likewise command you, that you take the said *A. B.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us, on — wheresoever we shall then be in *England*, (or in C. P. “before our said justices at *Westminster* aforesaid, on —,”) to satisfy the said *C. D.* of — which were adjudged to the said *C. D.* in our said court before us, (or in C. P. “before our said justices,”) according to the form of the statute in such case made and provided, for his damages which he had sustained, as well on occasion of the premises, as for his costs and charges by him laid out about his defence in this behalf, whereof the said *A. B.* is convicted, as appears to us of record : And thus is this writ. Witness, (&c.)

(§ 89)

*Retorno habe-
re, after judg-
ment of non-
pro on writ
of second de-
liverance and
ca sa for da-
mages and
costs.*

George the Third, (&c.) To the sheriff of — greeting :
Whereas by our writ we lately commanded you, that whereas

(§ 90)

*Capias in as-
thernam, after
C. D.*

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XLII.

judgment of
non-pros, on a
writ of second
deliverance.

C. D. had been attached, by our writ of second deliverance, to be in our court before us, (or in C. P. "before our justices at *Westminster*,") to answer *A. B.* in a plea wherefore he took the cattle goods and chattels of him the said *A. B.* and unjustly detained them against gages and pledges, &c. And the said *A. B.* afterwards in our same court made default; wherefore it was considered in our same court, that the said *A. B.* should take nothing by his said writ, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the cattle goods and chattels aforesaid, to hold to him irreplevisable for ever; you should without delay cause the said cattle goods and chattels to be returned to the said *C. D.* to hold to him irreplevisable, in form aforesaid; and in what manner you should execute that writ, you should make appear to us, on — wheresoever, (&c.) (or in C. P. "to our said justices at *Westminster* aforesaid, on —,") And you on that day returned to us, (or in C. P. "to our said justices,") that the cattle goods and chattels aforesaid were eloigned by the said *A. B.* to places to you unknown, so that you could not find the same to the said *C. D.* as by the writ aforesaid you were commanded: Therefore we command you, that you take in *Withernam*, the cattle goods and chattels of the said *A. B.* to the value of the cattle goods and chattels aforesaid, by the said *C. D.* before taken, and deliver them to the said *C. D.* to hold to him irreplevisable, until you can cause the cattle goods and chattels aforesaid, by the said *C. D.* before taken, to be returned to the said *C. D.* and in what manner, (&c.): And put by gages and safe pledges the said *A. B.* that he be before us, on — wheresoever we shall then be in *England*, (or in C. P. "before our said justices at *Westminster* aforesaid, on —,") to answer as well to us for his contempt, as to the said *C. D.* for his damages and injury in this behalf done, and have there this writ. Witness, (&c.)

CHAP. XLIII.

Of EJECTMENT.

Sir,

I HEREBY give you notice to quit and deliver up, on the — day of — next, the possession of the messuage or dwelling-house, (or, “rooms and apartments, or farm lands and premises,”) with the appurtenances, which you now hold of me, situate in the parish of — in the county of —. Dated the — day of — 18—.

(§ 1)
Notice to quit,
by the landlord,
to a tenant from
year to year.

Yours, &c.

A B.

To Mr. *C. D.* (the tenant in possession :)

Or, (if it be doubtful who is tenant,)

To Mr. *C. D.* or whomever it may concern.

Sir,

I do hereby, as the agent for and on behalf of your landlord *A. B.* of —, give you notice to quit and deliver up, on, (&c.) the possession of the messuage, (&c.) which you now hold of the said *A. B.* situate, (&c.) Dated, (&c.)

(§ 2)
The like, by
an agent for
the landlord

Yours, &c.

E. F.

To Mr. *C. D.* (&c.)

Agent for the said *A B.*

Sir,

I hereby give you notice, &c. (as in § 1. to the date;) provided your tenancy originally commenced at that time of the year; or otherwise, that you quit and deliver up the possession of the messuage, (&c.) at the end of the year of your tenancy, which shall expire next after the end of half a year from the date of your being served with this notice. Dated, (&c.)

(§ 3)
The like, by
the landlord,
where the com-
mencement of
the tenancy
is doubtful

Yours, &c.

To Mr. *C. D.* (&c.)

A. B.

Sir,

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(§ 4.)
The like, by a
tenant from
year to year
of his intention
to quit.

Sir,

I hereby give you notice of my intention to quit, and that I shall on the — day of — next, quit and deliver up the possession of the messuage, (&c.) which I now hold of you, situate, (&c.) Dated, (&c.)

Yours, &c.

To Mr. A. B.

C. D.

Sir,

(§ 5.)
The like, by
an agent, to
determine a
tenancy of, or
composition
for tithes.

I do hereby, as the agent for and on behalf of A. B. of — give you notice of his intention to determine, and that he will accordingly determine, on the — day of — next, the agreement under which you hold and enjoy (or "the composition payable by you, for and in respect of") all and singular the tithes of corn, &c. (describing them,) arising, growing, increasing, renewing and happening, in upon from or out of all and every the several and respective farms, lands and premises, (or "in upon from and out of certain lands and premises in your occupation,) situate in the parish of — in the county of —, and within the tithable and titheable places thereof; and that the same shall be determined from and after the said — day of — next, be determined. Dated, (&c.)

Yours, (&c.)

E. F.

To Mr. C. D.

Agent for the said A. B.

(§ 6.)
Notice by a
landlord, to de-
termine a lease
at the end of
the first seven
years.

Whereas by a certain indenture of lease, bearing date on or about the — day of — which was in the year of our lord —, and made or mentioned to be made between me A. B. of — of the one part, and you C. D. of — of the other part, I the said A. B. for the considerations therein mentioned, did demise and lease to you the said C. D. your executors administrators and assigns, the messuage, (&c.) to hold the same to you the said C. D. your executors administrators and assigns, from the — day of — and during and unto the full end and term of — years, commencing next ensuing, and fully to be completed, and to remain in force nevertheless as therein and therein after expressed. And in which said indenture of lease is contained a proviso or condition, that if, &c. (reciting the proviso.) Now by the said

A. B.

A. B. in pursuance of the liberty given me by the aforesaid **CHAP. XLIII.**
 proviso or condition, do hereby give you notice, that it is my
 mind and intention to avoid the said recited indenture of
 lease, at the end of the first seven years of the said term of
 — years thereby granted. Dated, (&c.)

Yours, &c.

To Mr. *C. D.**A. B.*

Sir,

Take notice, that by indentures of lease and release, bearing date, (&c) the release being of three parts, and made between *A. B.* of — of the first part, *C. D.* of — of the second part, and *E. F.* of — of the third part, the messuage, (&c.) now in your occupation, situate and being in the parish of — in the county of —, were conveyed and assured (amongst other things,) to the said *E. F.* for better securing the payment of the sum of —*l.* and interest by the said *C. D.* to the said *E. F.* at a certain time in the said indenture of release mentioned, and now past; and which said sum of —*l.* with considerable arrear of interest thereon, is still due to the said *E. F.* I do therefore, as the executor, &c. for the said *E. F.* hereby give you notice, not to pay any rent now due, or hereafter to become due from you, or the said messuage, (&c.) to the said *C. D.* or to any other person or persons than to the said *E. F.* or to him as his attorney, or to such other person or persons as shall be duly authorized by him to receive the same. Dated, (&c.)

(§ 7)
 Notice by a
 mortgagee, not
 to pay rent to
 the mortgagor.

Yours, &c.

To Mr. *G. H.**I. K.*

Sir,

Take notice, that by indenture bearing date, (&c.) and made between — of the first part, *E. F.* of the second part, and under-written *G. H.* of the third part, and *I. K.* of the fourth part, the said *A. B.* for the consideration therein mentioned, did give grant and confirm unto the said *E. F.* his executors administrators and assigns, for and during the natural life of the said *A. B.* an annuity or clear yearly sum of —*l.* of lawful money of Great Britain, &c.

(§ 8)
 Notice by the
 trustee of a
 term, for secu-
 ring an annui-
 ty, to pay him
 the rent, for
 satisfying the
 arrears, &c.

tain, &c.

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XLIII.

tain, to be yearly issuing, ~~going~~, ~~had~~ received and taken by him the said *E. F.* by and out of a certain manor, and certain messuages, lands, tenements, hereditaments and premises therein particularly mentioned, situate and being at — in the county of —, and comprising, amongst other things, certain lands and premises in your occupation; the same annuity or yearly sum of —*l.* to be payable quarterly, at the times and in manner therein mentioned, with powers of distress and entry, in case of the non-payment thereof. And for the further better and more effectual securing the payment of the said annuity or yearly sum of —*l.* at the times and in manner aforesaid, the said *A. B.* did thereby grant, bargain, sell and demise the said manor, messuages, (&c.) unto me the said *G. H.* for a term of — years, if the said *A. B.* should so long live: And I do hereby further give you notice, that there is now due and owing to the said *E. F.* the sum of —*l.* for arrears of the said annuity or yearly sum of —*l.* up to the — day of — last: And I do therefore hereby require you, ~~not~~ to pay any rent now due, or hereafter to become due, ~~on~~ the aforesaid lands and premises in your occupation, or ~~any part thereof~~, to the said *A. B.* or to any other person than the said *G. H.* or such other person or persons as I shall appoint to receive the same, until the said sum of —*l.* together with the growing and future payments of the said annuity or yearly sum, and all costs charges and expences sustained or occasioned by the non-payment thereof, shall be fully paid and satisfied. Dated, (&c.)

Yours, &c.

To Mr. *C. D.* "

G. H.

(3)
at n m a

* In the King's Bench,
v. (Common Pleas, or
Exchequer of Pleas.)

John Doe, on the demise
of *A. B.* plaintiff,
and
E. F. (&c.) defendants.

Be it remembered, that we whose names are here-under written, being the several tenants in possession of the premises in question in this cause, situate and being in the parish of — in the county of —, do hereby severally attorn tenants, to *A. B.* of — the lessor of the plaintiff in this cause, for such

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such parts of the said premises as are in our respective possessions, and we, and each and every of us, have this day severally paid to the said *A. B.* the sum of 1s upon such attornment, on account and in part of the rent due, and to become due from us severally and respectively, for and in respect of the said premises, and we do severally and respectively become tenants thereof to the said *A. B.* from the — day of — last past. As witness our hands, this — day of — in the year of our Lord 15— Wm., (&c)
C. D. (&c)

To *E. F.* (&c) Gentleman, 'attornies of his Majesty's court of King's Bench (or "Common Pleas") at Westminster, jointly and severally, or to any other attorney of the said court, (or, in the Exchequer, "To *L. F.* &c (naming the four attorneys of the court,) attorneys of his majesty's court of Exchequer at Westminster, jointly and severally")

These are to desire and authorize you the attorneys above-named, or any one of you, or any other attorney of the court of King's Bench (or "Common Pleas") aforesaid, to appear for me, *C. D.* in the said court, as of this present term, or of any other subsequent term, and then and there to receive a declaration for me, in an action of trespass and ejectment of farm, at the suit of *John Doe*, on the demise of *A. B.* for — messuages, (&c) with the appurtenances, situate, (&c) which the said *A. B.* on, (&c) had demised to the said *John Doe*, for the term of — years, from, (&c) and thereupon to confess the same action, or else to suffer judgment, by *nil dicit* or otherwise, to pass against me in the same action, and to be thereupon forthwith entered up against me of record in the said court, for the recovery of the said term yet to come of and in the said tenements with the appurtenances, and also for the recovery of — l. damages besides costs of suit And I the said *C. D.* do hereby desire and authorize, &c. (as before, p. 205)

Know all men by these presents, that I *A. B.* of — have made, ordained, constituted and appointed, and by these presents do make, ordain, constitute and appoint *C. D.* of — my

(§ 11)
I tell of at
the court
and shall be
on the premises

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— my true and lawful attorney, for me, and in my name, to enter into and take possession of a certain messuage, (&c.) late in the tenure and occupation of —, situate and being in the parish of — in the county of —, but now untenanted; and after the said *C. D.* hath taken possession thereof, for me, and in my name, and as my act and deed, to sign seal and execute a lease of the said premises with the appurtenances, unto *E. F.* of —, to hold the same to him the said *E. F.* his executors administrators and assigns, from the — day of — last past, before the date hereof, for the term of — years, at the yearly rent of a pepper-corn, if lawfully demanded; subject to a proviso, for making void the same, on tendering the sum of six-pence to the said *E. F.* his executors or administrators. In witness, (&c.)

Sealed and delivered, (&c.)

(§ 12.)
Affidavit of
executing
same

I. K. of — gentleman, maketh oath and saith, that he was present and did see *A. B.* of —, named in the letter of attorney hereunto annexed, duly sign seal and deliver the said letter of attorney.

Sworn, (&c.)

I. K.

(§ 13.)
Lease.

This indenture made the — day of —, (&c.) between *A. B.* of — of the one part, and *E. F.* of — of the other part, witnesseth, that the said *A. B.* for and in consideration of the sum of five shillings of lawful money of *Great Britain*, to him in hand paid by the said *E. F.* at or before the sealing and delivery of these presents, the receipt whereof the said *A. B.* doth hereby acknowledge, hath demised granted and to farm let unto the said *E. F.* his executors and administrators, all that messuage, (&c.) situate and being in the parish of — in the county of —, late in the tenure and occupation of —, but now untenanted; to have and to hold the same unto the said *E. F.* his executors and administrators, from the — day of — last past, before the date hereof, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended; yielding and paying therefore yearly and every year, during the said term, unto the said *A. B.* or his assigns, the rent of one pepper-corn, if lawfully demanded at the feast of — :

Provided

Provided always, and these presents are on this condition, that if the said *A. B.* or his assigns shall at any time or times hereafter, tender or cause to be tendered unto the said *E. F.* his executors or administrators, the sum of six-pence, that then and in such case, and from thenceforth, this present indenture, and every thing herein contained, shall cease determine and be absolutely void, any thing herein contained to the contrary thereof in anywise notwithstanding. In witness whereof, the parties hereto have interchangeably set their hands and seals, the day and year first above written

Scaled and delivered, as the act and deed of the above named <i>A. B.</i> by <i>C. D.</i> of —, by virtue of a letter of attorney to him to that purpose made by the said <i>A. B.</i> bearing date, (§ 14) being hereunto stamped, in the presence of,	}	<i>A. B.</i> <i>E. F.</i>
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J. K.

The declaration in ejectment on a vacant possession, at common law, is the same as in other cases, for which see *post*, p. 725, &c. only that the plaintiff and defendant, as well as the lessor of the plaintiff, are in this case the real parties, as for instance, *E. F.* the lessee of the premises should be plaintiff, *G. H.* (a real ejector,) defendant, and *A. B.* lessor of the plaintiff; and instead of the common notice, at the end of the declaration, substitute the following one

Take notice, that unless you appear in his Majesty's court of King's Bench at *Westminster*, within the first four days (or, if in the country, "within the first eight days") of next — term, at the suit of the above-named plaintiff *E. F.* and plead to this declaration in ejectment, judgment will be thereon entered against you by default.

Your's, &c.

J. K. plaintiff's attorney.

To Mr. *G. H.*

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(§ 16)
Affidavit to
move for jud-
gment, in A. B.

In the King's Bench.

E. F., on the demise of
A. B. . . . plaintiff,
Between and
G. H. . . . defendant.

I. K. of — gentleman, maketh oath and saith, that on the — day of — last, he this deponent did see *C. D.* in the letter of attorney hereto annexed named, for and in the name of *A. B.* the lessor of the plaintiff, enter upon and take possession of the messuage in the lease hereto also annexed mentioned, by entering on the threshold of the outer-door thereof, and putting his finger into the key-hole of the said door, the said messuage being then locked up and uninhabited, so that no other entry thereon could be made, nor any possession thereof taken, without force. And this deponent further saith, that he did, on the same day, see the above-named *C. D.* after such entry made, and whilst he stood on the threshold of the said door, duly sign and seal the lease hereunto annexed, in the name of the said *A. B.* and as his act and deed deliver the same unto the said *E. F.* the plaintiff above-named, and that after the said lease was so executed, this deponent did see the said *E. F.* take possession of the said messuage, by virtue of the said lease, by entering upon the threshold of the said outer-door, and putting his finger into the key-hole of the said door, the said messuage being then locked up and uninhabited, so that no other entry could be made thereon, save as aforesaid; and that immediately afterwards, the said *G. H.* the defendant, came and removed the said *E. F.* from the said door, and put his foot on the threshold thereof; whereupon this deponent did, on the day and year aforesaid, deliver to the said defendant *G. H.* who still continued upon the said threshold, a true copy of the declaration of ejectment, and note thereunder written, hereto annexed.

Sworn, (&c.)

I. K.

In the Common Pleas, this is unnecessary; but on the first day of term, the plaintiff is a rule to plead, as in common cases, and at the expiration of the time for pleading,

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John Doe, for a term which is not yet expired, and ejected him from his said farm; and other wrongs to the said *John Doe* there did, to the great damage of the said *John Doe*, and against the peace of our lord the now king, &c. And thereupon the said *John Doe*, by — his attorney complains; that whereas the said *A. B.* on the — day of — in the — year of the reign of our said lord the king, at the parish afore said in the county aforesaid, had demised the said tenements with the appurtenances, to the said *John Doe*, to have and to hold the same to the said *John Doe* and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be compleat and ended. By virtue of which said demise, the said *John Doe* entered into the said tenements with the appurtenances, and became and was thereof possessed, for the said term so to him thereof granted. And the said *John Doe* being so thereof possessed, the said *Richard Roe* afterwards, to wit, on the — day of — in the — year aforesaid, with force and arms, &c. entered into the said tenements with the appurtenances, which the said *A. B.* had demised to the said *John Doe*, in manner and for the term aforesaid, which is not yet expired, and ejected the said *John Doe* from his said farm; and other wrongs to the said *John Doe* then and there did, to the great damage of the said *John Doe*, and against the peace of our said lord the now king. Wherefore the said *John Doe* saith that he is injured, and hath sustained damage to the value of —*l.* and therefore he brings his suit, &c.

Mr. C. D.

(§ 20)
Notice to appear.

I am informed that you are in possession of, or claim title to, the premises in this declaration of ejectment mentioned, or some part thereof; and I, being sued in this action as a casual ejector only, and having no claim or title to the same, do advise you to appear in next — term, (or, in London or *Middlesex*, "on the first day of next — term,") in his majesty's court of King's Bench, whosoever his said majesty shall then be in *England*, (or, in the *Common Pleas*, "in his majesty's court of Common Bench at *Westminster*,") by some attorney of that court; and then and there, by rule of the same

same court, to cause yourself to be made defendant in my stead; otherwise I shall suffer judgment therein to be entered against me by default, and you will be turned out of possession.

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Your's, &c.

Richard Roe.

In the King's Bench,
(or, Common Pleas).

(§ 21)
The like, for a
manor, rectory,
and tithes.

—— term, (&c.)

—— (to wit). *Richard Roe*, late of —— yeoman, was attached to answer *John Doe*, of a plea wherefore the said *Richard Roe*, with force and arms, &c. entered into the manor of —— in the county of ——, with the rights members and appurtenances thereunto belonging, and also into the rectory of the parish church of —— in the county aforesaid, and into —— messuages, (&c.) and also into all and singular the tithes of corn, grain, hay, wood, grass, wool, lambs and calves, arising, growing, renewing, increasing and happening within the said parish of ——, and within the bounds limits and titheable places of the said rectory, which *A. B.* had demised and granted to the said *John Doe*, for a term which is not yet expired, and ejected him from his said farm; and other wrongs, &c. (as in the last declaration :) And thereupon, (&c.) that whereas the said *A. B.* on the —— day of —— in the —— year of the reign of our said lord the king, at the parish aforesaid in the county aforesaid, by a certain indenture then and there made, and sealed with the seal of the said *A. B.* and which the said *John Doe* now brings her: into court, the date whereof is the same day and year aforesaid, had demised and granted the said manor, rectory, tenements and tithes with the appurtenances, to the said *John Doe*; to have and to hold the same to the said *John Doe* and his assigns, from the —— day of —— then last past, for and during and unto the full end and term of —— years from thence next ensuing, and fully to be complete and ended: By virtue of which said demise and grant, the said *John Doe* entered into the said manor, rectory, tenements and tithes with the appurtenances, and became and was thereof possessed, for the said term so to him thereof granted: And the said *John Doe* being so thereof

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thereof possessed, the said *Richard Roe* afterwards, to wit, on the — day of — in the — year aforesaid, with force and arms, &c. entered into the said manor, rectory, tenements and tithes with the appurtenances, which the said *A. B.* had demised and granted to the said *John Doe*, in manner and for the term aforesaid, which is not yet expired, and ejected the said *John Doe* from his said farm, and other wrongs, &c. (as in the last, with the like notice to appear)

(§ 7) In the King's Bench,
r¹ ^{in a} ^{chancery} ^{chancery} (or, Common Pleas.)
chancery

— term, (&c.)

— (to wit) *Richard Roe*, late of — yeoman, was attached to answer *John Doe*, of a plea wherefore the said *Richard Roe*, with force and arms, &c. entered into — messuages, (&c.) with the appurtenances, situate and being in the parish of — in the county of —, which *A. B.* had demised to the said *John Doe*, for a term which is not yet expired. And also wherefore the said *Richard Roe*, with force and arms, &c. entered into — other messuages, (&c.) with the appurtenances, situate and being in the parish aforesaid in the county aforesaid, which *E. F.* had demised to the said *John Doe*, for a term which is not yet expired, and ejected him from his said several farms; and other wrongs, (&c.) And thereupon, (&c.) That whereas the said *A. B.* on the — day of — in the — year of the reign of our said lord the king, at the parish aforesaid in the county aforesaid, had demised the said tenements first above-mentioned with the appurtenances, to the said *John Doe*; to have and to hold the same to the said *John Doe* and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be compleat and ended: And also that whereas the said *E. F.* on the said — day of — in the — year aforesaid, at the parish aforesaid in the county aforesaid, had demised the said tenements secondly above-mentioned with the appurtenances, to the said *John Doe*, to have and to hold the same to the said *John Doe* and his assigns, from the said — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be compleat and ended: By virtue of which said several demises, the said

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said *John Doe* entered into the said several tenements first and secondly above mentioned, with the appurtenances, and became and was thereof possessed for the said several terms so to him thereof respectively granted. And the said *John Doe* being so thereof possessed, the said *Richard Roe* afterwards, to wit on the — day of — in the — year aforesaid, with force and arms, &c. entered into the said several tenements first and secondly above mentioned with the appurtenances, which the said *A. B.* and *E. F.* had respectively demised to the said *John Doe*, in manner and for the several terms aforesaid, which are not yet expired, and ejected the said *John Doe* from his said several farms; and other wrongs, &c. (as before, p. 726. with the like notice to appear.)

In the King's Bench,
(or, Common Pleas)

(§ 2.)
The like, with —
two ousters

— term, (&c.)

— (to wit) *Richard Roe*, late of — yeoman, was attached to answer *John Doe*, of a plea wherefore the said *Richard Roe*, with force and arms, &c. entered into — messuages, (&c.) with the appurtenances, situate and being in the parish of — in the county of —, which *A. B.* had demised to the said *John Doe*, for a term which is not yet expired, and ejected him from his said farm: And also wherefore the said *Richard Roe*, with force and arms, &c. entered into — other messuages, (&c.) with the appurtenances, situate and being in the parish aforesaid, in the county aforesaid, which *E. F.* had demised to the said *John Doe*, for a term which is not yet expired, and ejected him from his said last-mentioned farms and other wrongs, &c. (as before. p. 726.) And thereupon, (&c.) that whereas the said *A. B.* on the — day of — in the — year of the reign of our said lord the king, at the parish aforesaid in the county aforesaid, had demised the said tenements first above-mentioned with the appurtenances, unto the said *John Doe*, to have and to hold the same to the said *John Doe* and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended: By virtue of which said demise, the said *John Doe* entered into the said tenements first above-mentioned with the appurtenances, and became and

was

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was thereof possessed, for the said term so to him thereof granted. And the said *John Doe* being so thereof possessed, the said *Richard Roe* afterwards, to wit, on the — day of — in the — year aforesaid, with force and arms, &c. entered into the said tenements first above-mentioned with the appurtenances, which the said *A B* had demised to the said *John Doe*, in manner and for the term aforesaid, which is not yet expired, and ejected him the said *John Doe* from his said farm: And also that whereas the said *E F* on the said — day of — in the — year aforesaid, at the parish aforesaid in the county aforesaid, had demised the said tenements secondly above-mentioned with the appurtenances, to the said *John Doe*, to have and to hold the same to the said *John Doe* and his assigns, from the said — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be completed and ended: By virtue of which said last-mentioned demise, the said *John Doe* entered into the said tenements secondly above-mentioned with the appurtenances, and became and was thereof possessed, for the said last-mentioned term so to him thereof granted. And the said *John Doe* being so thereof possessed, the said *Richard Roe* afterwards, to wit, on the said — day of — in the — year aforesaid, with force and arms, &c. entered into the said tenements secondly above-mentioned with the appurtenances, which the said *E. F.* had demised to the said *John Doe*, in manner and for the term last aforesaid, which is not yet expired, and ejected the said *John Doe* from his said last-mentioned farm; and other wrongs, &c. (as before, p. 726. with the like notice to appear.)

(§ 24.)
The like, by
tenants in
common.

In the King's Bench,
(or, Common Pleas.)

— term, (&c.)

— (to wit.) *Richard Roe*, late of — yeoman, was attached to answer *John Doe*, of a plea wherefore the said *Richard Roe*, with force and arms, &c. entered into one undivided moiety or half part, (the whole into two equal moieties or half parts to be divided,) of — messuages, (&c.) with the appurtenances, situate, (&c.) which *A B* had demised to the said *John Doe*, for a term which is not yet expired, and ejected

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ejected him from his said farm : And also wherefore the said *Richard Roe*, with force and arms, &c. entered into one other undivided moiety or half part, (the whole into two equal moieties or half parts to be divided,) of — other messuages, (&c.) with the appurtenances, situate, (&c.) which *C D* had demised to the said *John Doe*, for a term which is not yet expired, and ejected him from his said last mentioned farm ; and other wrongs, (&c.) And thereupon, (&c.) that whereas the said *A. B.* on, (&c.) at, (&c.) had demised the said undivided moiety or half part of the said tenements first above-mentioned with the appurtenances, to the said *John Doe*, to have and to hold, &c. (as in the last :) By virtue of which said demise, the said *John Doe* entered into the said undivided moiety or half part of the said tenements first above-mentioned with the appurtenances, and became and was thereof possessed, for the said term so to him thereof granted : And the said *John Doe* being so thereof possessed, the said *Richard Roe* afterwards, to wit, on, (&c.) with force and arms, &c. entered into the said undivided moiety or half part of the said tenements first above-mentioned with the appurtenances, which the said *A. B.* had demised to the said *John Doe*, in manner and for the term aforesaid, which is not yet expired, and ejected him from the said *John Doe* from his said farm : And also that whereas the said *C. D.* on the said, (&c.) at, (&c.) aforesaid, had demised the said undivided moiety or half part of the said tenements secondly above-mentioned with the appurtenances, to the said *John Doe* ; to have and to hold, &c. (as before, substituting *secondly*, for *first* above-mentioned ; and other wrongs, (&c.)

Lew & Markham.

— term, in the — year of the reign of king *George*
the third.

— (to wit.) *John Doe* complains of *Richard Roe*, being in the custody of the marshal of the marshalsea of our lord the now king, before the king himself ; for that whereas *A. B.* on the — day of — in the — year of the reign of our said lord the king, at the parish of — in the county of —, had demised to the said *John Doe*, — messuages, (&c.) with the appurtenances, situate and being in the parish aforesaid in the county aforesaid ; to have and to hold the same to the said

(§ 95)
Declaration by
bill, in K. B.

CHAP. XLIII. said *John Doe* and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be compleat and ended By virtue of which said demise, the said *John Doe* entered into the said tenements with the appurtenances, and became and was possessed thereof, for the said term so to him thereof granted And the said *John Doe* being so thereof possessed, the said *Richard Roe* afterwards, to wit, on the — day of — in the — year aforesaid, with force and arms, &c. entered into the said tenements with the appurtenances, which the said *A. B.* had demised to the said *John Doe*, in manner and for the term aforesaid, which is not yet expired, and ejected the said *John Doe* from his said farm; and other wrongs to the said *John Doe* then and there did, against the peace of our said lord the king, and to the damage of the said *John Doe* of —l and therefore he brings his suit, &c.

Pledges to prosecute, $\left\{ \begin{array}{l} \text{John Den,} \\ \text{and} \\ \text{Richard Fen.} \end{array} \right.$

(Notice to appear “ in his Majesty’s court of King’s Bench at *Westminster* ”)

(§ 11.)
The like in the
Exchequer

In the Exchequer

— term, (&c)
— (to wit) *John Doe*, a debtor to our sovereign lord the now king, comes before the barons of his majesty’s Exchequer at *Westminster*, on the — day of — (last day of the term preceding the time of service,) in this same term, by — his attorney, and complains by bill against *Richard Roe*, present here in court the same day, of a plea of trespass and ejectment of farm, for that whereas, &c. (as in the last, concluding as follows) to the damage of the said *John Doe* of —l whereby he is the less able to satisfy our said lord the king, the debts which he owes to his majesty at his said Exchequer, and therefore he brings his suit, &c.

Pledges, (&c)

(Notice to appear “ in the Office of Pleas of his Majesty’s court of Exchequer at *Westminster* ”)

In the King's Bench,

(Common Pleas, or
Exchequer of Pleas.)

John Doe, on the demise
of *A. B.* plaintiff,

Between

and

Richard Roe, defendant

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(§ 27)
Affidavit of
service of de-
claration in
justice at

I. K. of — gentleman, maketh oath, that he this depo-
nent did, on the — day of — last (or instant), personally
serve *C. D.* tenant in possession of the premises in the decla-
ration of ejectment hereunto annexed mentioned, or (if he be
not tenant of the whole,) some part thereof, with a true copy
of the said declaration, and of the notice thereunder written,
hereto annexed, and this deponent at the same time read over
the said notice to the said *C. D.* and explained to him the
intent and meaning of such service, (or generally thus “and
this deponent at the same time acquainted the said *C. D.* of
the intent and meaning of the said declaration and notice.”)

Sworn, (&c.)

I. K.

In the King's Bench, (&c.)

John Doe, on the demise
of *A. B.* plaintiff,

Between

and

Richard Roe, defendant,

(§ 26)
The like
whereof
the law
will
intend

I. K. of — gentleman, maketh oath and saith, that he
did, on the — day of — last, (or instant,) personally
serve *C. D.* (&c.) tenants in possession, &c. (as in the last,)
with the said declaration, and the notice thereunder written,
by delivering a true copy of the said declaration and notice
to each of them the said *C. D.* &c. (and, if the notice was not
directed to all the tenants, say, “except that the said notice
was directed to each of them the said *C. D.* &c. separately,”)
and this deponent at the same time read over the said
notice to each of them the said *C. D.* (&c.) and explained to
them respectively the intent and meaning of such service (or
generally, that “this deponent at the same time acquainted
each of them the said *C. D.* &c. of the intent and meaning of
the said declaration and notice.”)

Sworn, (&c.)

I. K.

In

CHAP. In the King's Bench, (&c.)

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(§ 29.)

The like,
where the de-
claration was
served on one
tenant, and the
wife of another,

John Doe, on the demise of

A. B. . . . plaintiff,

Between

and

Richard Roe, defendant.

I. K. of — in the county of — gentleman, maketh oath and saith, that he did, on the — day of — instant, personally serve C D. tenant in possession of part of the premises in the declaration of ejectment hereunto annexed mentioned, with a true copy of the said declaration, and of the notice thereunder written; and this deponent at the same time read over the notice thereunder written to the said C D. and explained to him the intent and meaning of such service: And this deponent further saith, that he did, on the same day, also serve G H. tenant in possession of other part (or "residue") of the premises in the said declaration mentioned, with another true copy of the said declaration and notice thereunder written, by delivering the same to, and leaving it with M. H. the wife of the said G. H. at the dwelling house of the said G. H. being parcel of the premises in the said declaration mentioned; and this deponent at the same time read over the notice thereunder written to the said M. H. and explained to her the intent and meaning of such service.

Sworn, (&c)

I. K.

(§ 30.)

In the King's Bench, (&c.)

The like, on
stat 4 Geo II.
c. 28 where the
premises are
untenanted.

John Doe, on the demise of

A. B. . . plaintiff,

Between

and

Richard Roe, defendant.

A. B. of — the lessor of the plaintiff in this cause, and I. K. of — gentleman, severally make oath and say; and first, this deponent I. K. for himself saith, that he did on the — day of — last, affix a copy of the declaration in ejectment hereto annexed, and the notice thereunder written, upon the door of the messuage in the said declaration mentioned, (or, in case the ejectment is not for the recovery of a messuage, "upon —, being a notorious place of the lands, tenements or hereditaments, comprized in the said declaration in ejectment,") there being no tenant then in the actual possession thereof: And this deponent A. B. for himself saith,
that

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XLIII.

that before such copy of the said declaration in ejectment was affixed as aforesaid, there was due to him this deponent, as landlord of the said messuage, (or, "lands, tenements or hereditaments,") with the appurtenances, from *C. D.* the tenant thereof, the sum of —*l.* for half a year's rent, upon and by virtue of a certain indenture of lease, bearing date the — day of — 18—, and made between this deponent of the one part, and the said *C. D.* of the other part; and that no sufficient distress was then to be found upon the said messuage, (or, "lands, tenements or hereditaments,") with the appurtenances, countervailing the arrears of rent then due to this deponent: And this deponent further saith, that at the time of affixing the copy of the said declaration in ejectment as aforesaid, he had power to re-enter the said messuage, (or, "lands, tenements or hereditaments,") with the appurtenances, by virtue of the said lease, for the non-payment of the rent so in arrear as aforesaid.

Sworn, (&c.)

A B.
I K.

A. B. of — the lessor of the plaintiff in this cause, and *I. K.* of — gentleman, severally make oath and say, and first, ~~this~~ deponent *I. K.* for himself saith, that this ejectment is brought for the recovery of the possession of a messuage with the appurtenances, situate in the parish of — in the county of —, held by *C D* as tenant thereof to the said *A B* at the yearly rent of —*l.*, and that he this deponent did on the — day of — instant, affix a true copy of the declaration in ejectment hereto annexed, and the notice thereunder written, upon the door of the said messuage, there being no tenant then in the actual possession thereof: And this deponent *A B.* for himself saith, that before the copy of the said declaration in ejectment was so affixed as aforesaid, there was due for rent to him this deponent, as landlord of the said messuage with the appurtenances, from the said *C D* the tenant thereof, the said *C. D.* the tenant thereof, the sum of —*l.* and upwards, for — then elapsed, and that no sufficient distress was then to be found upon the said messuage with the appurtenances, countervailing the arrears of rent then due to this deponent: And this deponent further saith, that at the time of affixing the copy of the said declaration

(§ 31)
The like at
another way

tion

CHAP.
XLIII.

tion in ejectment as aforesaid, he had power to re enter the said messuage with the appurtenances, for the non-payment of the rent so in arrear as aforesaid.

A B

Sworn, (&c.)

I. A.

(§ 32)
Rule for judg-
ment, for the
whole premises,
in K. B.

— next after —, in the — year of king George
the third

Doe, on the demise of *A. B.* } Unless the tenant in pos-
Roe. } session of (or, if the pre-
mises are untenanted, “ Unless some person claiming title to”)
the premises in question, shall appear and plead to issue, on
— next after —, let judgment be entered for the plaintiff,
against the now defendant *Roe*, by default. Upon the motion
of Mr. —.

By the Court.

(§ 33)
The like, for
part

Doe, on the demise of *A. B.* } Unless *C. D.* tenant in pos-
Roe. } session of part of the pre-
mises in question, shall appear and plead to issue, on —
next after —, let judgment be entered for the plaintiff,
against the now defendant *Roe*, by default. But execution
shall issue for such part of the premises only as is in his pos-
session. Upon the motion of Mr. —.

By the Court

(§ 34)
The like, where
part of the pre-
mises are ten-
anted and
part untenanted

Doe, on the demise of *A. B.* } Unless *C. D.* (&c.) tenants
Roe. } in possession of part of the
premises in question, and unless — or some other person
claiming title to such parts of the said premises as are unten-
anted, shall appear and plead to issue, on — next after
—, let judgment be entered for the plaintiff against the now
defendant *Roe*, by default. But execution shall issue for such
part of the premises only as is in the possession of the said te-
nants, and such other parts as are untenanted.

By the Court

— term,

— term, — George the third.
— the — day of —.

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XLIII.

(§ 35.)
Rule for judgment, in C. P.

Doe, } It is ordered, that unless *C. D.* tenant in pos-
v. } session of the tenements in question, or some other
Roe. } person concerned in the title thereof, shall appear by
an attorney of this court, who shall then forthwith receive a
declaration, and plead thereto the general issue, and consent
to the common rule for confessing lease entry and ouster,
upon the trial to be had, judgment be entered against the
casual ejector; and in the mean time, proceedings are to stay.
On the motion of Mr. Serjeant —.

By the Court.

Doe, on the demise of *A. B.* } Upon reading the affidavit
Roe. } of *I. K.* and the declaration in
ejectment and notice thereto annexed; it is ordered, that
C. D. the tenant in possession of the premises in question,
upon notice of this rule to be given to him, shall upon, (§c.)
shew cause, why the service of the said declaration and notice
upon *M. H.* his niece, should not be deemed as good service
of the same, as if served upon him the said *C. D.*: And it is
further ordered, that leaving a copy of this rule at the
house of the said *C. D.* with some person there, or, in
case no person can be met with, affixing a true copy thereof
on the outer door of the said house, shall be deemed good
service of the said rule upon the said *C. D.* Upon the motion
of Mr. —.

(§ 36.)
Rule to shew
cause, why
service on the
tenant's niece
should not be
good service,
in K. B.

By the Court.

Doe, on the demise of *A. B.* } Upon reading the affidavit
Roe. } of *I. K.* and another, and the
declaration in ejectment and notice thereto annexed; it is or-
dered, that *C. D.* tenant of part, and landlord of all the pre-
mises in question in this cause, upon notice of this rule to be
given to him, or left for him at his dwelling house at — in
the county of —, and *E. F.* another tenant of part of the
said premises, and who acts as steward or bailiff to the said
C. D. in the management and receipt of the rents of the pre-
mises in question, upon notice of this rule to be also given to
him, shall upon, (§c.) shew cause, why the declarations and
notices, the one nailed upon the door of a barn, being part of

(§ 37.)
The like, why
service on the
landlord, and a
tenant of part
of the pre-
mises, being
his steward,
&c. should not
be good ser-
vice, in K. B.

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the premises in question, in the possession of the said *C. D.* and another copy nailed on the front door of the rectory house late in the possession of *G. H.* other part of the said premises,—which rectory house was shut and fastened up, and is more particularly described in the above affidavit,—and another copy of the said declaration and notice delivered to *A. D.* sister of the said *C. D.* should not be deemed as good service thereof, as if they had been personally served upon the said *C. D.* : And it is further ordered, that leaving a copy of this rule at the house of the said *C. D.* with some person living there, and delivering another copy of this rule to the said *E. F.* above-mentioned, shall be deemed as good service thereof, as if personally served on the said *C. D.* Upon the motion of Mr. ———.

By the Court.

738)
Judgment for
the plaintiff by
default, by or-
der of the Court,
with a writ of
habere.

As yet of ——— term, in the ——— year of the reign of king *George* the Third. Witness *Edward* Lord *Ellenborough*.

—— (to wit.) *John Doe*, on the demise of *A. B.* puts in his place *J. K.* his attorney, against *Richard Roe*, in a plea of trespass and ejectment of farm.

—— (to wit.) The said *Richard Roe* in person, at the suit of the said *John Doe*, in the plea aforesaid,

—— (to wit.) *Richard Roe* was attached to answer *John Doe*. &c. (copy the declaration to the end, omitting the notice, and proceed on a new line as follows :)

And the said *Richard Roe*, in his proper person, comes and defends the force and injury when, &c. and says nothing in bar or preclusion of the said action of the said *John Doe*, whereby the said *John Doe* remains therein undefended against the said *Richard Roe* : Therefore it is considered, that the said *John Doe* recover against the said *Richard Roe*, his said term yet to come of and in the tenements aforesaid with the appurtenances, and also his damages sustained by reason of the trespass and ejectment aforesaid : And hereupon the said *John Doe* freely here in court remits to the said *Richard Roe*, all such damages costs and charges as might or ought to

be

be adjudged to him the said *John Doe*, by reason of the trespass and ejectment aforesaid; therefore let the said *Richard Roe* be acquitted of those damages costs and charges, &c. And hereupon the said *John Doe* prays the writ of the said lord the king, to be directed to the sheriff of the county aforesaid, to cause him to have possession of his said term yet to come of and in the tenements aforesaid with the appurtenances, and it is granted to him, returnable before the said lord the king, on — wheresoever, (&c.)

CHAP.
XI III.

(Entry of warrants of attorney, as in the last)

— (to wit) Be it remembered, that in — term last past, (§ 1) before our lord the king at *Westminster*, came *John Doe*, by ^{his} *J. K.* his attorney, and brought into the court of our said lord the king before the king himself then there, his certain bill against *Richard Roe*, being in the custody of the marshal of the marshalsea of our said lord the king before the king himself, of a plea of trespass and ejectment; and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard Roe*, which said bill follows in these words, that is to say — (to wit) *John Doe* complains of *Richard Roe*, being in the custody, &c. (here copy the declaration to the end, omitting the pledges and notice, and then proceed on a new line as follows)

And now at this day, that is to say, on — next after — in this same term, until which day the said *Richard Roe* had leave to imparl to the said bill, and then to answer the same, &c. before our said lord the king at *Westminster*, come as well the said *John Doe*, by his attorney aforesaid, as the said *Richard Roe* in his proper person; and the said *Richard Roe* defends the force and injury when, &c. and says nothing in bar or preclusion, &c. (as before, making the writ of possession returnable on a day certain)

— (to wit) *Richard Roe* was attached to answer *John Doe*, &c. (copy the declaration to the end, omitting the notice, and then proceed as in the King's Bench by *original*, ante, p. 738. to the end of the judgment, making the writ of possession "returnable here, on —," &c.)

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(41)

The bill, in the
the pledge.

Pleas, &c. (as before, p. 218.)

(After copying the declaration, as before, p. 732. adding the pledges, but omitting the notice, proceed on a new line as follows :)

And the said *Richard Roe*, in his proper person, comes and defends the force and injury, when, &c. and the said *John Doe* prays that the said *Richard Roe* may answer him in the premises ; and upon this the said *Richard Roe* says nothing in bar or preclusion, &c. (as before, p. 733. making the writ returnable "here," on a general return-day.)

(§ 17)
Consent of at
least two, for the
tenant to be
admitted to de-
fend &c. in
the bill.

— on (or next after) —, in the — year of king
George the third.

— to wit *Doe*, on the demise of *A. B.* against
Roe, for — messuages, (&c.) in the parish of —
in the said county (or if there be several demises,
say, "*Do*, on the demise of *A. B.* for — messu-
ages, (&c.) in the parish of — in the said county,
and also on the demise of *E. F.* for — other mes-
suages, (&c.) in the parish of — in the said county,
against *Roe*," and if the tenant appear for part only,
add, "being put out of the premises mentioned in the
declaration.")

It is ordered, by
the consent of the
attornies for both
parties, that *C. D.*
be made defend-
ant in the stead
of the now defend-
ant *Roe*, and do

forthwith appear, at the suit of the plaintiff, and (if the ejectment be by *bill*,) file common bail, and receive a declaration in in action of trespass and ejectment, for the premises in question, and forthwith plead thereto not guilty ; and upon the trial of the issue, confess lease entry and ouster, and insist upon the title only ; otherwise let judgment be entered for the plaintiff against the now defendant *Roe*, by default : And if upon the trial of the said issue, the said *C. D.* shall not confess lease entry and ouster, whereby the plaintiff shall not be able further to prosecute his writ (or "bill") against the said *C. D.* then no costs shall be allowed for not further prosecuting the same, but the said *C. D.* shall pay costs to the plaintiff, in that case to be taxed : And it is further ordered, that if upon the trial of the said issue, a verdict shall be given for the said *C. D.* or it shall happen that the plaintiff shall not further prosecute his said writ (or "bill"), for any other cause than for not confessing lease entry and ouster.

ouster, then the lessor of the plaintiff shall pay to the said CHAP. XLIII.
C D costs in that case to be adjudged
I K attorney for the plaintiff.
L M attorney for the defendant

In drawing up the rule on this consent, the clerk of the rules prefixes the day of making it, omits the premises in the margin, and instead of the attornies names at the end, adds
 "By the Court."

In the Common Pleas.

— term, in the — year of the reign of king (44)
George the Third

— the — lay of —

— to wit *D C*, in the demise of *A B* against } It is ordered, by
Roe for — mesuages &c (as in the last but 1) } consent of *I. K* at-
 torney for the plaintiff, and *L. M* attorney for *C D* who
 claims title to the tenements in question, that the said *C D*.
 shall be admitted defendant, and that the said *C D* shall im-
 mediately appear by his said attorney, who shall receive a
 declaration, and plead thereto the general issue, this term,
 and that at the trial to be had thereon, the said *C D*. shall
 appear in his proper person, or by his counsel or attorney,
 and confess lease entry and ouster, for so much of the tene-
 ments specified in the plaintiff's declaration, as are in the pos-
 session of the said defendant or his tenant, or any person
 claiming by or under his title, or that in default thereof, judg-
 ment shall be thereupon entered against the defendant *Richard*
Roe, the casual ejector, but proceedings shall be stayed against
 him, until default shall be made in any of the premises. And
 by the like consent, it is further ordered, that if by reason of
 any such default, the plaintiff shall happen to be nonsuited
 upon the trial, the said *C D* shall take no advantage there-
 of, but shall thereupon pay to the plaintiff costs, to be taxed
 by the prothonotaries: And it is further ordered, that the lessor
 of the plaintiff shall be liable to the payment of costs to the
 said *C D* by the court here to be in any manner allowed or
 adjudged

By the Court.

22

In

CHAP. In the King's Bench

XLIII

(§ 45)
Affidavit in
support of rule,
that plaintiff
is entitled to
confess lease
and entry only,
in K. B.

C. D. of — maketh oath and saith, that no actual ouster of the lessor of the plaintiff has been committed by this deponent, and that (as he this deponent verily believes,) this ejectment may involve a question between tenants in common, or joint-tenants.

Sworn, (&c.)

C. D.

(§ 46)
In K. B. to
the
plaintiff
and
only

Doe, on the demise of *A. B.* } Upon reading the rule made
Roe . . . } yesterday, and upon hearing
Me — (&c.) for the lessor of the plaintiff, and Me —
(&c.) for the tenant, it is ordered, that the defendant enter into a rule for confessing lease and entry, and also for confessing ouster of the nominal plaintiff, in case an actual ouster of the plaintiff's lessor by the defendant shall be proved at the trial, but not otherwise.

By the Court.

(§ 47)
Consent
to rule.

Doe, } It is ordered, by the consent of the attornies for
Roe } both parties, that *C. D.* be made defendant, &c. (as before, p. 740 to the words "not guilty,") and upon the trial of the issue, confess lease and entry, and also ouster of the nominal plaintiff, in case an actual ouster of the plaintiff's lessor by the defendant shall be proved at the trial, but not otherwise, and insist upon the title and such actual ouster only, otherwise let judgment be entered, (&c.) And if upon the trial of the said issue, the said *C. D.* shall not confess lease and entry, and also ouster upon the condition aforesaid, whereby, (&c.) And it is further ordered, that if upon the trial of the said issue, a verdict shall be given for the said *C. D.* or it shall happen that the plaintiff shall not further prosecute his said writ (or bill), for any other cause than for not confessing lease and entry, and also ouster subject to the condition aforesaid, then the lessor of the plaintiff shall pay to the said *C. D.* costs in that case to be adjudged.

By the Court

(§ 48)
In K. B.
1844.

— next after —, in the — year of king
George the third.

Doe, } It is ordered, by the consent of the attornies for both
Roe. } parties, that *C. D.* be made defendant, &c. (as before,

p 17

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XLIII

p 740 to the words "not guilty,") and upon the trial of the issue, confess lease entry and ouster, in case actual ouster of the plaintiff's lessors, or some or one of them, be not necessary to support the plaintiff's title to recover, but in case such actual ouster shall be necessary to support the plaintiff's title to recover, then to confess lease and entry, and (in case such actual ouster shall be proved, and not otherwise,) ouster of the nominal plaintiff, and insist upon the title, and such actual ouster (if necessary) only, otherwise let judgment be entered, &c. (as in the list)

De, on the demise of *A B* } It is ordered, that *F I* ^(§ 4)
Roe } landlord of the tenant in pos- ^{the plaintiff}
session of the premises in question in this cause, shall be ^{admitted}
joined and made defendant with the said tenant, if he shall ^{the plaintiff}
appear. And the said *F I* desiring, if the said tenant shall ^{defendant}
not appear, that he may appear by himself, and consenting
that in such case he will enter into the common rule to con-
fess lease entry and ouster, in such manner as the said tenant
ought, in case he had appeared, (or if the rule be special, to
confess lease and entry only, say "to confess lease and entry
only, without ouster unless an actual ouster of the lessor of
the plaintiff, by the said *C D*, or those claiming under him,
be proved at the trial,") leave is given to the said *F I*
pursuant to the late act of parliament, if the said tenant shall
not appear, to appear by himself, and upon his entering into
such common rule, to become defendant in the stead of the
casual ejector, and to defend his title to the said premises
without the said tenant. The plaintiff nevertheless is at liberty
to sign judgment against the casual ejector, but execution
thereon is stayed, until the court shall further order. Upon
the motion of Mr —.

By the Court

It is ordered, that *F I*, landlord of the premises (or "part ^(§ 5)
of the premises") in question, be joined and made defendant, ^{the plaintiff}
together with *C D* tenant in possession of the premises in ⁱⁿ
question, in the common rule by consent in ejectment, in- ^{the plaintiff}
stead of the casual ejector, in case the said *C D* shall ap- ^{admitted}
pear, (or, if for part, "shall appear, and defend his title as to
— parts of the premises in question only".) And it is fur-
ther

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ther ordered, that in case the said *C. D.* shall neglect to appear, the said *E. F.* may appear by himself, and defend his title to the premises (or, "to — parts of the premises") in question, pursuant to the late act of parliament, he hereby consenting to enter into the like rule that the said *C. D.* by the course of the court, in case he had appeared, ought to have done. Nevertheless, the plaintiff shall be at liberty to sign judgment against the casual ejector, but execution is hereby stayed, until this court shall make further order therein. And by consent of counsel for the said *E. F.* it is further ordered, that the said *E. F.* upon the trial to be had, shall admit himself to be in the actual possession of the said premises. On the motion of Mr. Serjeant — for the said *L. F.*

By the Court

(§ 11)
The rule for
the plaintiff of
a tenant in
possession of
with or without
the other ten-
nant in C. D.

It is ordered, that *L. F.* landlord of the premises in question, and who is tenant in possession of part of the said premises, be joined and made defendant together with *C. D.* tenant in possession of the residue of the said premises, in the common rule by consent in ejectment, instead of the casual ejector, in case the said *C. D.* appear, and the said *L. F.* upon the trial to be had, shall defend his title, as well to the premises in his own possession, as to the premises in the possession of the said *C. D.* And it is further ordered, that in case the said *C. D.* shall neglect to appear, the said *E. F.* may appear by himself, and defend his title as well to the premises in his own possession, as to the premises in the possession of the said *C. D.* pursuant to the late act of parliament, the said *E. F.* hereby consenting to enter into the like rule, that the said *C. D.* by the course of the court, in case he had appeared, ought to have done. Nevertheless, the plaintiff shall be at liberty to sign judgment against the casual ejector, as to the premises in the possession of the said *C. D.*; but execution thereon is hereby stayed, &c. (as in the last.)

By the Court.

(§ 12)
• Practice for ap-
pearance by
one tenant, in
K. B.

— (to wit.) Appearance for *C. D.* at the suit of *John Doe*, on the demise of *A. B.*

In

In the King's Bench, *John Doe*, on the demise of **CHAP.**
 (Common Pleas, or *A. B.* plaintiff, **XI III.**
 Exchequer of Pleas) and **(§ 51)**
C. D. . . . defendant **Confession of**
 the action, in
 ejectment.

I confess this action, and that the said *John Doe* is entitled to recover his term yet to come of and in — messuages, (&c) with the appurtenances, situate, (&c) being parcel of the tenements mentioned in the declaration in this cause, and also that the said *John Doe* hath sustained damages, by reason of the trespass and ejectment complained of, to the sum of —*l.* besides his costs of suit, to be taxed by the master, (in the King's Bench or Exchequer, or "by one of the prothonotaries" in the Common Pleas,) but no judgment is to be entered up, or execution issued, until the — day of — next, in default of my then delivering up the possession of the said messuages, (&c) to the said *A. B.* and paying him the said sum of —*l.* together with the said costs. And I do hereby agree, not to bring any writ of error, &c. (as before p. 209.)

— term, (&c)
C. D. } And the said *C. D.* by **Plea of**
ats *L. M.* his attorney, comes **guilty**
Doe, on the demise of *A. B.* } and defends the force and in-
 jury, when, &c. and says that he is not guilty of the supposed
 trespass and ejectment, (or, if several ousters are laid in the
 declaration, "of the supposed trespasses and ejectments")
 above laid to his charge, in manner and form as the said
John Doe hath above thereof complained against him. And
 of this he the said *C. D.* puts himself upon the country, &c.

Doe, on the demise of *A. B.* } Upon hearing the attornies **(§ 52)**
z. } or agents on both sides, I do **Rule in C. P.**
C. D. } order, that the defendant shall **to amend plea**
 amend his plea and consent-rule in this cause, by entitling **in consent-**
 them of a day in — term last, subsequent to the — day **rule by con-**
 of —; and that the secondary shall draw up a consent-rule **ting, the m of a**
 accordingly: And that the lessor of the plaintiff be at liberty **particular day,**
 to entitle the issue and record, as of a day subsequent to the **and that the**
 said — day of —; and that the lessor of the plaintiff be **issue will be**
 at liberty to lay the demise, on a day or days subsequent to the **cord be ent-**
 said — day of — instant. Dated the — day of — 18—. **itled, and de-**
mise laid, ac-
cordingly.

A. Chambre.
C. D.

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(§ 56)
To consider
for particulars

C. D. } Upon hearing the attornies
ats. } or agents on both sides, and
Doe, on the demise of *A B.* } by consent, I do order that
the plaintiff do deliver to the defendant's attorney, the parti-
culars of the premises for which this ejectment is brought ;
and in the mean-time all further proceedings in this cause be
stayed. Dated the — day of — 15—.

(§ 57)
Particulars of
premises for
which it is
brought

I do hereby give you notice, that this ejectment is brought
for the recovery of — messuages, (§c) with the appurte-
nances, situate in the parish of — in the county of —.
Dated, (§c)

Your's, &c.

J. K. plaintiff's attorney

To *Mr. L. M.* defendant's attorney.

(§ 58)
The like, for
which it is de-
fended

I do hereby give you notice, that this ejectment is de-
fended for — messuages, (§c) with the appurtenances, si-
tuate in the parish of — in the county of —, now in the
possession of the above-named *C. D.* or his under-tenant
Dated, (§c)

Your's, &c.

L. M. defendant's attorney

To *Mr. I. K.* plaintiff's attorney.

(§ 59)
Rule for stay-
ing proceed-
ing, till a
guardian be
appointed for
an infant or son,
to answer costs
in *K. B.*

Doe, on the demise of *A. B.* } Upon reading the affidavit
Roe. } of *L. M.* (§c) it is ordered,
that the lessor of the plaintiff, upon notice, (§c) shew cause,
why further proceedings in this action should not be stayed,
until a sufficient guardian be appointed for the lessor of the
plaintiff, who will undertake to pay to the defendant, such
costs as may happen to be adjudged to him, and that in the
mean-time, further proceedings be stayed. Upon the motion
of *Mr. —*.

By the Court.

(§ 60)
The like, in
C. P.

Upon reading the affidavit of *G. H.* it is ordered, that the
lessor of the plaintiff, upon notice, (§c) shall shew cause,
(§c) why the proceeding, in this action should not be stayed,
till some person, on behalf of the lessor of the plaintiff, give
security for payment of the defendant's costs, in case of a
verdict.

consent, or verdict for the defendant, the lessor of the plaintiff being an infant.

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XI III.

By the Court

Doc., on the demise of *A B* } Upon reading the affidavit
Roe } of *I M* and another, it is (§ 1)
 ordered, that the lessor of the plaintiff, upon notice, (&c) 1b 1b, till
 shew cause, why further proceedings in this action should not 1c 1c 1c 1c
 be stayed, until sufficient security be given to answer the 1d 1d
 defendant his costs, in case the plaintiff shall be assessed, or
 a verdict shall be given for the said defendant, and that in
 the mean-time, further proceedings be stayed Upon the
 motion of *Mr* —

By the Court.

Upon reading the affidavit of the defendant, it is ordered, (6 (2))
that the lessor of the plaintiff, upon notice, (5c) shall hear (The like, no
cause, (5c) why all further proceedings in this action shall c P until the
not be stayed, until the costs taxed in a former action brought t costs are paid
in the court of King's Bench, on the demise of the lessor at mer de-
of the plaintiff, for the same premises, are paid and in the
mean-time, and until this court shall otherwise order, that all
further proceedings be stayed.

By the Court.

*D*o, on the demise of *A B* } Upon reading the affidavit
Roe . . . } of the defendant, it is or- ^{th like on} ^{payment of}
dered, upon the said defendant's forthwith bringing into court, ^{int &} ^{h t} a
the whole rent due and in arrears, and such sum to answer the
costs as the master shall direct, that further proceedings in
this cause be stayed. And it is referred to the master to com-
pute the said arrears of rent, and to tax the said costs, and
upon the said defendant's paying the said lessor of the plain-
tiff, what the said master shall find due and allow for the
said rent and costs, that all further proceedings therein, as to
the non-payment of the said rent, be stayed. But it is further
ordered, if the said lessor of the plaintiff has any other title
to the premises in question, than for the non-payment of the
said rent, he is at liberty to proceed. Upon the motion of
Mr. ———.

By the Court

It

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(§ 64.)
The like, in
C. P.

It is ordered, that the lessor of the plaintiff, upon notice, (&c.) shall shew cause, (&c.) why, upon the defendant's bringing into this court, all the rent and arrears due to the lessor of the plaintiff, together with the plaintiff's costs in this action, it should not be referred to one of the prothonotaries, to settle and tax the sum due for such rent and arrears and costs; and why upon payment thereof, all further proceedings in this action should not be stayed: (adding the following clause, in the rule absolute, "But in default of the defendant's bringing the said rent and costs into court, within the time aforesaid, the said former rule of the — day of — be discharged.")

By the Court.

(§ 65)
The like, on
payment of
mortgage money, &c. in
C. P.

Upon reading the affidavit of *G. H.* it is ordered, that the lessor of the plaintiff, upon notice, (&c.) shall shew cause, (&c.) why, upon the defendant's bringing into this court, the principal money and interest due to the lessor of the plaintiff upon his mortgage, and also such costs as have been expended in any suit or suits at law or equity upon such mortgage, his costs in this cause to be ascertained computed and taxed by one of the prothonotaries, the money so brought into this court should not be deemed and taken to be in full satisfaction and discharge of such mortgage; and upon payment thereof to the lessor of the plaintiff, why all proceedings in this action should not be stayed; and why the mortgaged premises, and the lessor of the plaintiff's estate and interest therein, should not be assigned and conveyed, at the costs and charges of the defendants, to such person as they shall appoint; and why all deeds, evidences and writings, in the custody or power of the lessor of the plaintiff, relating to the title of such mortgaged premises, should not be delivered up to the defendants, or to such person or persons as they shall for that purpose nominate and appoint.

By the Court.

(§ 66.)
Issue by original, in K. B. or
C. P.

In the King's Bench,
(or, Common Pleas.)

— term, (the term of the appearance and plea,) in the
— year of the reign of king *George* the third.

— (to wit.) *C. D.* was attached to answer *John Doe, &c.*
(as in the declaration, to the end, substituting the name of
the

the real defendant for that of the casual ejector, and omitting the notice; after which proceed on a new line as follows:)

And the said *C. D.* by *L. M.* his attorney, comes and defends the force and injury, when, &c. and says that he is not guilty of the supposed trespass and ejectment above laid to his charge, in manner and form as the said *John Doe* hath above thereof complained against him: And of this he the said *C. D.* puts himself upon the country; and the said *John Doe* doth so likewise: Therefore the sheriff is commanded, that he cause to come before our lord the king, on ——— where-soever our said lord the king shall then be in *England*, (or in C. P. “that he cause to come here on ———,”) twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. (adding in K. B. by *original*, “the same day is given to the parties aforesaid, &c.”)

The issue by *bill*, jury-process, and record of *nisi prius* in ejectment, are the same as in other cases, except that the plea or action is described as “a plea of trespass and ejectment of farm.”

—— next after ——, in the —— year of king *George* (§ 67)
the third. Rule for costs, for not proceeding, to trial according to notice, in K. P.

Doe, on the demise of *A. B.* } Upon reading the affidavit
of *L. M.* gent. it is ordered, that the attorneys on both sides shall attend the master, and he shall examine the matter, and tax the defendant his costs, for that the lessor of the plaintiff has not proceeded to trial pursuant to his notice; which costs, when taxed, shall be paid by the said lessor of the plaintiff, if it shall appear to the master that costs ought to be paid.
Roe. }
Upon the motion of Mr. ——.

By the Court.

Afterwards, &c. (as before, p. 359. to the words “tried and sworn,” and then as follows:) say upon their oath, that the said *C. D.* is guilty of the trespass and ejectment within laid to his charge, in manner and form as the said *John Doe* hath within complained against him; and they assess the damages, &c. (as before, p. 368. § 22.) (§ 69)
Postea for the plaintiff, on not guilty.

CHAP. Say upon their oath, that the said *C. D.* is not guilty of
 XLIII. the trespass and ejectment within laid to his charge, in man-
 () ner and form as the said *John Doe* hath within complained
 The Clerk of the Court doth not
 against him. Therefore, &c.

(§ 71) — as to —, parcel of the tenements within-mentioned,
 The jury where put shall say upon their oath, that the said *C. D.* is guilty of the tres-
 pass and ejectment within laid to his charge, in manner and
 form as the said *A. B.* hath within thereof complained against
 him, and they assess the damages, (&c.) And as to the re-
 sidue of the tenements within-mentioned, the jurors aforesaid
 upon their oath aforesaid say, that the said *C. D.* is not guilty
 of the trespass and ejectment within laid to his charge, in
 manner and form, (&c.) Therefore, &c.

(§ 71) Afterwards, that is to say, on — at —, before, (&c.)
 The Clerk of the Court comes the within-named *John Doe*, by his attorney within-
 mentioned, and the within-named *C. D.* although solemnly
 required, comes not, but makes default, therefore let the ju-
 rors of the jury whereof mention is within made, be taken
 against him by his default, and the jurors of that jury being
 summoned also come, and to speak the truth of the matters
 within contained, being chosen tried and sworn, the said *C. D.*
 although solemnly called to appear, by himself or his counsel
 or attorney, to confess lease entry and ouster, doth not come,
 by himself or his counsel or attorney, nor doth he confess
 lease entry and ouster, but therein makes default, wherefore
 the said *John Doe* doth not further prosecute his writ (or
 "bill") against the said *C. D.* Therefore, &c.

(§ 72) Afterwards, that is to say, on the day and at the place within
 specified, let the jury continue, &c. (as in a common *postea*, to the finding of the
 jury, which varies according to the facts of the case, and con-
 clude as follows.) But whether or not upon the whole mat-
 ter aforesaid, by the jurors aforesaid in form aforesaid found,
 the said *C. D.* is guilty of the trespass and ejectment within
 specified, the jurors aforesaid are altogether ignorant, and
 thereupon they pray the advice of the court of our said lord
 the king before the king himself. And if upon the whole
 matter aforesaid, it shall seem to the said court, that the said
C. D. is guilty of the trespass and ejectment aforesaid, then

the jurors aforesaid upon their oath aforesaid say, that the said *C. D.* is guilty thereof, in manner and form as the said *John Doe* hath within thereof complained against him, and in that case, they assess the damages of the said *John Doe*, on occasion of the trespass and ejectment aforesaid, besides his costs and charges by him about his suit in this behalf expended, to —*l.* and for those costs and charges to —*s.* But if upon the whole matter aforesaid, it shall seem to the said court, that the said *C. D.* is not guilty of the trespass and ejectment aforesaid, then the jurors aforesaid upon their oath aforesaid say, that the said *C. D.* is not guilty thereof, in manner and form as he hath within in pleading alledged. And because, (&c)

As yet of — term, (&c) ()
 (Entry of warrants of attorney, in K. B. as before, p 735) Fill in nt for the plaintiff by
 — (to wit) *C. D.* was attached to answer *John Doe*, (&c) co o t t
 (copy the issue, to the end of the award of the *verdict*, issue joint, *if there be* or divided, by *the jury*) At which day, before our said lord the king at *Westminster*, come (or, in the Common Pleas or Exchequer, “At which day come here,”) the parties aforesaid, by their attorneys aforesaid, and hereupon the said *C. D.* relinquishing his said plea by him above pleaded, says that he cannot deny the action of the said *John Doe*, nor but that he the said *C. D.* is guilty of the trespass and ejectment above laid to his charge, in manner and form as the said *John Doe* hath above thereof complained against him, and he confesses and admits that the said *John Doe* hath sustained damages, by reason of the said trespass and ejectment, to the sum of —, besides his costs and charges by him about his suit in this behalf expended. And hereupon the said *John Doe* freely here in court remits to the said *C. D.* the residue of the damages in the said declaration mentioned, and he prays judgment, and his term yet to come of and in the tenements aforesaid with the appurtenances, together with his said damages so confessed, and his costs and charges aforesaid, to be adjudged to him, &c. Therefore it is considered, that the said *John Doe* do recover against the said *C. D.* his said term yet to come of and in the tenements aforesaid with the appurtenances, together with the damages aforesaid, to the said sum of —, in form aforesaid confessed, and also —*l.* for his

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his said costs and charges, by the court of our said lord the king, now here adjudged to the said *John Doe*, and with his assent; which said damages costs and charges in the whole amount to ——. And hereupon the said *John Doe* prays the writ of our said lord the king, to be directed to the sheriff of —— aforesaid, to cause him to have possession of his said term yet to come of in the tenements aforesaid with the appurtenances, and it is granted to him, returnable before our said lord the king, on —— wheresoever, &c. (or, in the Common Pleas or Exchequer, "returnable here on ——, &c.")

(§ 74.)
The like, for
the plaintiff, as
to part of the
premises, and
for the defend-
ant, on a *nolle
prosequi*, as to
the residue.

(To the end of the issue, and then as follows:) At which day, before our said lord the king at *Westminster*, come (or, in the Common Pleas or Exchequer, "At which day come here,") the parties aforesaid, by their attornies aforesaid; and hereupon the said *C. D.* as to ——, parcel of the tenements in the said declaration mentioned, relinquishing his said plea by him above pleaded, says that he cannot deny the action of the said *John Doe*, nor but that he the said *C. D.* is guilty of the trespass and ejectment above laid to his charge, in manner and form as the said *John Doe* hath above thereof complained against him: And upon this the said *John Doe* says that he will not further prosecute his suit against the said *C. D.* for the trespass and ejectment in the residue of the tenements aforesaid; and he prays judgment, and his term yet to come of and in the said —— with the appurtenances, parcel, &c. together with his damages costs and charges by him in this behalf sustained: Therefore it is considered, that the said *John Doe* do recover against the said *C. D.* his said term yet to come of and in the said —— with the appurtenances, parcel, &c. and also ——. for his said damages costs and charges, by the court of our said lord the king now here adjudged to the said *John Doe*, and with his assent, and also with the assent of the said *C. D.* And let the said *C. D.* be acquitted of the said trespass and ejectment in the residue of the tenements aforesaid, and go thereof without day, &c. And the said *John Doe* prays the writ of our said lord the king, to be directed to the sheriff of —— aforesaid, to cause him to have possession of his said term yet to come of and in the said —— with the appurtenances, parcel, &c. and it is granted to him, returnable before our said lord the king,
on

fulfillment
required, (&c.)

on — wheresoever, &c. (or, in the Common Pleas or Exchequer, “returnable here on —, &c.”)

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As yet of — term, (&c.)

(§ 75)

— (to wit.) *C. D.* was attached to answer *John Doe*, of a plea, &c. (copy the issue, to the end of the award of the *verdict facias*, and proceed as follows.) At which day, before our said lord the king at *Westminster*, come (or, in the Common Pleas or Exchequer, “At which day come here,”) the parties aforesaid, by their attorneys aforesaid, and hereupon the said *C. D.* relinquishing his said plea by him above pleaded, says that he cannot deny the action of the said *John Doe*, nor but that he the said *C. D.* is guilty of the trespass and ejectment in the — count of the said declaration mentioned, as to one undivided part of the tenements in that count also mentioned, and therein laid to his charge, in manner and form as the said *John Doe* hath above thereof complained against him, and he confesses and admits that the said *John Doe* hath sustained damages, by reason of the said last-mentioned trespass and ejectment, to the sum of —*l.* besides his costs and charges by him about his suit in this behalf expended. And hereupon the said *John Doe* freely here in court remits to the said *C. D.* the residue of the damages in the said declaration mentioned, and says that he will not further prosecute his suit against the said *C. D.* as to the residue of the tenements laid therein, or the said other tenements in the said declaration mentioned, and he prays judgment, and his term yet to come of and in the said — part of the said tenements with the appurtenances, in the said — count of the said declaration mentioned, together with his said damages so confessed, and his costs and charges aforesaid, to be adjudged to him, &c. Therefore it is considered that the said *John Doe* do recover against the said *C. D.* his said term yet to come of and in the said — part of the tenements last aforesaid with the appurtenances, together with his damages aforesaid, to the said sum of —*l.* in form aforesaid acknowledged, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged to the said *John Doe*, and with his assent, which said damages costs and charges in the whole amount to —*l.*: and let the said *C. D.* be acquitted of the supposed trespasses and

The like, as to
in the
put in one
count, with a
remittitur
and the
proceeding
the record.

Judgment
signed, (&c.)

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ejectments in the said declaration mentioned, as to the residue of the tenements last aforesaid, and also to the said other tenements in the said declaration mentioned, and go thereof without day, &c. And hereupon the said *John Doe* prays the writ of our said lord the king, to be directed to the sheriff of — aforesaid, to cause him to have possession of his said term yet to come of and in the said — part of the said tenements in the said — count of the said declaration mentioned, with the appurtenances; and it is granted to him, returnable before our said lord the king on —, wheresoever, &c. (or, in the Common Pleas or Exchequer, “returnable here on —,” &c.)

(§ 76.)
The like, on
the writ for the
plaintiff.

(*Idem*.)

(To the end of the *postea* as in other cases, *mutatis mutandis*, and then as follows :) Therefore it is considered, that the said *John Doe* do recover against the said *C. D.* his said term yet to come of and in the tenements aforesaid with the appurtenances, and his said damages to —*l.* by the jurors aforesaid in form aforesaid assessed, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *John Doe*, and with his assent; which said damages costs and charges in the whole amount to —*l.*: and let the said *C. D.* be taken, &c. And hereupon the said *John Doe* prays the writ of our said lord the king, to be directed to the sheriff of the county of — aforesaid, to cause him to have possession of his said term yet to come of and in the tenements aforesaid with the appurtenances; and it is granted to him, returnable before our said lord the king, on — wheresoever, &c. (or, in the Common Pleas or Exchequer, “returnable here on —,” &c.)

(§ 77.)
The like, for
the plaintiff, as
to part of the
premises, and
for the defend-
ant, as to the
residue.

Therefore it is considered, that the said *John Doe* do recover against the said *C. D.* his said term yet to come of and in the said — parcel, &c. with the appurtenances, and the damages costs and charges aforesaid, by the jurors aforesaid in form aforesaid assessed, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *John Doe*, and with his assent; which said damages costs and charges in the whole amount to —*l.* and let the said *John Doe* be amerced for his false claim against the said *C. D.* as to the residue of the tenements

tenements in the said declaration mentioned, whereof the said *C. D.* is acquitted in form aforesaid, and the said *C. D.* go thereof without day, &c. And hereupon the said *John Doe* prays the writ, &c. (as in the last)

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(To the end of the *postea*, and then as follows :) And hereupon the said *John Doe* freely here in court confesses, that he will not further prosecute his suit against the said *C. D.* as to the remaining three-fifths of the tenements in the said declaration mentioned; therefore, as to the said three-fifths of the tenements aforesaid, let the said *C. D.* be acquitted, and go thereof without day, &c.: And the said *John Doe* prays judgment, and his term yet to come of and in the said two-fifths of the tenements aforesaid, whereof the said *C. D.* is convicted, together with his damages costs and charges aforesaid; Therefore it is considered, that the said *John Doe* do recover against the said *C. D.* his said term yet to come of and in the said two-fifths of the tenements aforesaid with the appurtenances, and the damages costs and charges aforesaid, by the jurors aforesaid in form aforesaid assessed, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *John Doe*, and with his assent; which said damages costs and charges in the whole amount to — *l.*; and let the said *C. D.* be taken, &c. And hereupon the said *John Doe* prays the writ of our said lord the king, to be directed to the sheriff of the county of — aforesaid, to cause him to have possession of his said term yet to come of and in the said two-fifths of the tenements aforesaid with the appurtenances; and it is granted to him, returnable before our said lord the king, on — wheresoever, &c. (or, in the Common Pleas or Exchequer, “returnable here on —,” &c.) At which day, before our said lord the king at *Westminster*, comes (or, in the Common Pleas or Exchequer, “At which day comes here,”) the said *John Doe*, by his attorney aforesaid; and the sheriff, to wit, — sheriff of the said county, now here returns, that by virtue of the said writ to him directed, he had on the — day of — in the — year of the reign of our said lord the king, given full and peaceable possession unto the said *John Doe*, of the said two-fifths of the tenements aforesaid with the appurtenances

(§ 79)
The like, for the plaintiff, as to part of the premises, and *rolle prosequas* to the residue, for which there was no *fin* by the jury, with award of *hab re facias* *poss si nem*, and return
judgment signed, (§ 80)



CHAP. XLIII. appurtenances, in the said writ mentioned, as therein he was commanded.

(§ 79)
Judgment of
non-pros. for the
defendant in
ejectment, for
not replying, in
K. B.

As yet of — term, (&c.)
— (to wit.) *C. D.* puts in his place *E. F.* his attorney,
at the suit of *John Doe*, on the demise of *A. B.* in a plea of
trespass and ejectment of farm.

— (to wit.) *C. D.* was attached to answer unto *John Doe*,
&c. (to the end of defendant's plea, and then as follows:)

And upon this the said *C. D.* prays that the said *John Doe*
may reply to the aforesaid plea of him the said *C. D.*; and
thereupon a day is given by the court here to the said *John Doe*,
before our lord the king, until — wheresoever, (&c.)
that is to say, for him the said *John Doe* to reply to the
aforesaid plea of the said *C. D.*; the same day is given to the
said *C. D.* at the same place: At which day, before our said
lord the king at *Westminster*, comes the said *C. D.* by his at-
torney aforesaid; and the said *John Doe*, although at that day
solemnly called, comes not, nor hath he replied to the afore-
said plea of the said *C. D.* nor doth he further prosecute his
said writ: Therefore it is considered by the court here, that
the said *John Doe* take' nothing by his said writ, but that he
and his pledges to prosecute be in mercy, &c.; and that the
said *C. D.* do go thereof without day, &c.

Vc. v.

(§ 80)
Rule for exe-
cution against
the casual ector,
where the
landlord had
been made de-
fendant, and
failed at the
trial, in K. B.

Doe, on the demise of *A. B.* } Upon reading a rule made
Ree. } in this cause on —, and
E. F. therein-named having made himself defendant in the
stead of the casual ejector, pursuant to the said rule, and the
postea in the said cause being produced and read, and a rule
made in the same cause this day; it is ordered, that the said
E. F. upon notice of this rule to be given to his attorney, (&c.)
shew cause, why the plaintiff should not have leave to sue out
execution, upon the judgment signed against the casual
ejector, pursuant to the first-mentioned rule. Upon the mo-
tion of Mr. —.

By the Court.

Upon

Upon reading a rule made in this cause, on the — day of —, in — term last, whereby *E. P.* landlord of the pre- CHAP. XLIII. (S. 21) mises then in question, had leave to defend his title to the said premises, pursuant to the late act of parliament, and the record of *nisi prius* between the plaintiff and the said *E. P.* and the return made thereon, whereby it appears that a verdict was found for the plaintiff, at the last assizes holden for the county of —; it is ordered, that the plaintiff have leave to take out execution on the judgment signed against the casual ejector.

By the Court.

George the Third, (scilicet) To the sheriff of — — creature Whereas *John Doe* by his attorney in our court before us at *Hertford*, by our writ, (or if by bill, say “by bill with a return”) and by the judgment of the same court, recovered against *C. D.** his term then and yet to come of and in — dwelling houses, &c. (as in the declaration in ejectment,) with the appurtenances, situate and being in the parish of — in your county, which *A. B.* on the — day of — in the — year of our reign, had demised to the said *John Doe*, to hold the same to the said *John Doe* and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended; by virtue of which said demise, the said *John Doe* entered into the said tenements with the appurtenances, and was possessed thereof, until the said *C. D.* afterwards, to wit, on the — day of — in the — year aforesaid, with force and arms, &c. entered into the said tenements with the appurtenances, which the said *A. B.* had demised to the said *John Doe*, in manner and for the term aforesaid, which was not then nor is yet expired, and ejected the said *John Doe* from his said farm; whereof the said *C. D.* is convicted, as appears to us of record: Therefore we command you, that without delay you cause the said *John Doe* to have the possession of his said term yet to come of and in the tenements aforesaid with the appurtenances: And in what manner you shall have executed this our writ, make appear

* If the judgment was by default, the execution is against *Richard Roe*, the casual ejector.

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to us, on ——— wheresoever we shall then be in *England*, (or by *bill*, “to us at *Westminster*, on ——— next after ———,”) and have there (or by *bill*, “have there then”) this writ. Witness *Edward* Lord *Ellenborough*, (&c.)

(§ 83.)
The like, in
C. P.

George the Third, (&c.) To the sheriff of ——— greeting: Whereas *John Doe* lately in our court before our justices at *Westminster*, by the consideration and judgment of the same court, recovered, &c. (as in the last); whereof the said *C. D.* is convicted: Therefore we command you, that without delay you cause the said *John Doe* to have the possession, &c. (as in the last): And in what manner you shall have executed this our writ, make appear to our justices at *Westminster*, on ———; and have there this writ. Witness Sir *Vicary Gibbs* knight, (&c.)

(§ 84.)
The like, in
the Exchequer.

George the Third, (&c.) To the sheriff of ——— greeting: Whereas *John Doe* our debtor, in our court before the barons of our Exchequer at *Westminster*, in this present term, (or “heretofore, that is to say, in the term of ——— last past, or in the ——— year of our reign,”) by the consideration and judgment of our said court, recovered, &c. (as in the last but one;) whereof the said *C. D.* is convicted, as by inspecting the rolls of our said Exchequer appears to us: Therefore we command you, that without delay you cause the said *John Doe* to have the possession, &c. (as in the last but one:) And in what manner you shall have executed this our writ, make appear to the barons of our said Exchequer at *Westminster*, on ——— next coming; and have there this writ. Witness Sir *Alexander Thomson* knight, (&c.)

(§ 85.)
The like, after
execution a-
warded on a
certiorari.

George the Third, (&c.) To the sheriff of ——— greeting: Whereas *John Doe* our debtor, in our court, &c. (as in the last, to “whereof the said *C. D.* is convicted,” and then as follows.) And whereupon it hath been considered in our said court, that the said *John Doe* should have his execution of the said judgment, according to the force form and effect of the recovery aforesaid, by the default of the said *C. D.* as by inspecting the rolls of our said Exchequer, appears to us: Therefore we command you, &c. (as in the last.)

George

George the Third, (&c.) To the sheriff of — greeting. CHAP XLIII. (§ 56)
 Whereas *John Doe* lately in our court, (&c.) recovered against *C. D.* his term then and yet to come of and in — dwelling houses, &c. (as in the declaration in ejectment,) with the appurtenances, situate and being in the parish of — in your county, which *A. B.* on the — day of — in the — year of our reign, had demised to the said *John Doe*, to hold the same to the said *John Doe* and his assigns, from the — day of — in the — year aforesaid, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended; and also his term then and yet to come of and in — other dwelling houses, (&c.) with the appurtenances, which *E. F.* on the — day of — in the — year aforesaid, had demised to the said *John Doe*, to hold the same to the said *John Doe* and his assigns, from the — day of — in the — year aforesaid, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended; by virtue of which said several demises, the said *John Doe* entered into the said several tenements with the appurtenances, and was possessed thereof, until the said *C. D.* afterwards, to wit, on the — day of — in the — year aforesaid, with force and arms, &c. entered into the said several tenements with the appurtenances, which the said *A. B.* and *E. F.* had respectively demised to the said *John Doe*, in manner and for the several terms aforesaid, which were not then nor are yet expired, and ejected the said *John Doe* from his said several farms; whereof the said *C. D.* is convicted, (adding in K. B. “as appears to us of record.”) Therefore we command you, that without delay you cause the said *John Doe* to have the possession of his said several terms, yet to come of and in the said several tenements with the appurtenances: And in what manner you shall have executed this our writ, make appear, &c. (as before, p. 757, 8.), and have there (or by bill, “have there then”) this writ. Witness, (&c.)

George the Third, (&c.) To our chancellor of our county-palatine of *Lancaster*, or to his deputy there, greeting. (§ 87) The like, to a county palatine.
 Whereas, &c. (as in the last writ, to the words “whereof, &c.” and then as follows:) Therefore we command you, that
 by

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by our writ, under the writ of our said county-palatine to be duly made, and directed to the sheriff of the same county; you command the said sheriff, that without delay he cause the said *John Doe* to have the possession of his several terms aforesaid, yet to come of and in the several tenements aforesaid with the appurtenances: And in what manner the said sheriff shall execute our said writ, let him certify to you, so that you may make the same known to us, on, (&c.); and have there (or by *bill*, “have there then”) this writ. Witness, (&c.)

(§ 96.)
The like, and
fieri facias for
costs, by ori-
ginal, in K. B.

George the Third, (&c.) To the sheriff of — greeting: Whereas, &c. (as in the *habere facias*, p. 757. to the return-day, and then as follows:) We also command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made — *l.* which the said *John Doe* lately in our said court before us at *Westminster* aforesaid, recovered against the said *C. D.* for his damages which he had sustained, as well on occasion of the trespass and ejectment aforesaid, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is also convicted, as appears to us of record: And have you the said monies before us, on the return-day aforesaid, wheresoever, (&c.) to be rendered to the said *John Doe*, for his damages aforesaid; and have there this writ. Witness *Edward Lord Ellenborough*, (&c.)

(§ 99)
The like, in
C. P.

George the Third, (&c.) To the sheriff of — greeting: Whereas, &c. (as in the *habere facias*, *ant.*, p. 758. to the return-day, and then as follows:) We also command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made — *l.* which the said *John Doe* lately in our said court before our justices at *Westminster* aforesaid, recovered against the said *C. D.* for his damages which he had sustained, on occasion of the trespass and ejectment aforesaid; whereof the said *C. D.* is also convicted: And have you the said monies before our said justices at *Westminster*, on the return-day aforesaid, to be rendered to the said *John Doe*, for his damages aforesaid; and have there this writ. Witness *Sir Ficary Gibbs* knight, (&c.)

George the Third, (&c.) To the sheriff of — greeting : CHAP.
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(§ 90)
The like, in the
1st ed.
Whereas, &c. (as in the *habere facias, ante*, p. 758. to the return-day, and then as follows :) We also command you, that you omit not by reason of any liberty of your county, but that you enter the same, and of the goods and chattels of *C. D.* in your bailiwick, you cause to be made —/ which in our said court were adjudged to the said *John Doe*, for his damages which he had sustained, on occasion of the trespass and ejectment aforesaid, whereof the said *C. D.* is also convicted, as by inspecting the rolls, &c. (in the common form, *ante*, p. 106, 7)

George the Third, (&c.) To the sheriff of — greeting : (§ 91)
The like, in the
1st ed.
Whereas, &c. (as in the *habere facias, ante*, p. 757 to the return-day, and then as follows) We also command you, that you take the said *C. D.* if he shall be found in — in bailiwick, and him safely keep, so that you may have his body before us, on the return-day aforesaid, wheresoever, (y^e) to satisfy the said *John Doe* —/ which in our said court before us at *Hestm.* aforesaid, were adjudged to the said *John Doe*, for his damages which he had sustained, as well on occasion of the trespass and ejectment aforesaid, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is also convicted, as appears to us of record, and have there this writ. Witness *Lizard Lord Litchborough, (&c.)*

(As in the last precedent, to the word “record,” in the last line before, and then as follows.) and also —/ which in our court of parliament were adjudged to the said *John Doe*, according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, by reason of the delay of execution of the judgment aforesaid, on pretext of prosecuting our writ of error, brought thereupon by the said *C. D.* against the said *John Doe*, in the same court of parliament, the said judgment being there in all things affirmed; whereof the said *C. D.* is also convicted, as by the inspection of the record and proceedings thereof, remitted from our said court of parliament into our said court before us, likewise appears to us of record; and have there this writ. Witness, (&c.)

George

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(§ 93.)
The like, in
C. P.

*George the Third, (&c.) To the sheriff of — greeting :
Whereas, &c. (as in the habere facias, ante, p. 758. to the re-
turn-day, and then as follows :) We also command you, that
you take the said C. D. if he shall be found in your baili-
wick, and him safely keep, so that you may have his body
before our said justices at Westminster, on the return-day
aforesaid, to satisfy the said John Doe —l. which in our said
court before our justices aforesaid, were adjudged to the said
John Doe, for his damages which he had sustained on occa-
sion of the trespass and ejectment aforesaid ; whereof the
said C. D. is also convicted ; and have there this writ. Wit-
ness Sir Vicary Gibbs knight, (&c.)*

(§ 94.)
The like, in the
Exchequer.

*George the Third, (&c.) To the sheriff of — greeting :
Whereas, &c. (as in the habere facias, ante, p. 758. to the re-
turn-day, and then as follows :) We also command you, that
you omit not, (&c.) but enter the same, and take the said C. D.
wheresoever he shall be found in your bailiwick, and him
safely keep, so that you may have his body before the barons
of our Exchequer at Westminster, on — next coming, to
satisfy the said John Doe of —l. which in our said court
were adjudged to the said John Doe, for his damages which
he had sustained, on occasion of the trespass and ejectment
aforesaid ; whereof the said C. D. is also convicted, as by in-
specting the rolls of our said Exchequer, also appears to us ;
and have there this writ. Witness Sir Alexander Thomson
knight, (&c.)*

(§ 95.)
Writ of restitu-
tion, in the
Exchequer.

*George the Third, (&c.) To the sheriff of — greeting :
Whereas John Doe our debtor, in our court, &c. (as before,
p. 758. to "whereof the said C. D. is convicted," &c. and
then as follows :) And whereas we afterwards, to wit, in —
term aforesaid, by our writ, commanded you, that without
delay you should cause the said John Doe to have the pos-
session of his said term, then to come of, and in the tenements
aforesaid with the appurtenances ; and that you should make
known to the barons of our said Exchequer at Westminster,
on a day now past, in what manner you should have execu-
ted that our writ : And because since the issuing of our said
writ,*

writ, it hath appeared to the barons of our said Exchequer, that the said judgment obtained by the said *John Doe* in manner foresaid, was irregularly obtained, and that our said writ thereupon issued improvidently and unjustly, therefore we command you, that if possession of the tenements aforesaid with the appurtenances, hath by virtue of our said writ been given or delivered to the said *John Doe*, then that without delay you cause restitution of the said tenements with the appurtenances, to be made to *G. H.* or his assigns, at whose instance the judgment aforesaid hath been set aside by our said court, he the said *G. H.* being landlord and owner of the tenements aforesaid with the appurtenances; and that whatever has been done by virtue of our said writ, you deem altogether void and of no effect, as you will answer the contrary at your peril: And in what manner you shall have executed this our writ, make appear to the barons of our said Exchequer at *Westminster* aforesaid, on — next coming, and have there this writ. Witness, (&c.)

By order of court, made this term.

Rose.

In the King's Bench,
(or Common Pleas)

John Doe, on the demise of

A. B. . . . plaintiff,

and

C. D. . . . defendant.

(§ c.)

Affidavit of defendant
made and re-
turned to
the court
for non-
payment of
costs.

L. M. of — gentleman, maketh oath and saith, that he this deponent did, on — the — day of — instant (or last), personally serve the above-named *A. B.* with the rule or order for the payment of costs, on account of his not having proceeded to trial pursuant to his notice, and the master's (or in C. P. "the prothonotary's") *allocatur* thereon, and also with the consent rule, and writ of *capias ad satisfaciendum* under the seal of this honourable court, hereunto annexed, by delivering unto him the said *A. B.* true copies thereof respectively; and at the same time, he this deponent shewed the said original rules, *allocatur* and writ of *capias ad satisfaciendum*, to the said *A. B.* and demanded of him the payment of the sum of —*l.* taxed upon the said first-mentioned rule or order, and also of the further sum of —*l.* being the costs adjudged

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adjudged to him this deponent, on the first judgment obtained in the above action, as appears by the master's (or in C. P. "by the prothonotary's") *allocatur* on the said first-mentioned rule or order, and by the said writ of *capias ad satisfaciendum*: But the said *A. B.* refused to pay the same, or any part thereof, and the same are still wholly due and unpaid.

Sworn, (&c.)



(§ 97.)
Subsum for
costs, for not
proceeding to
trial, or on
non-suit in
ejectment, in
the Exchequer.

George the Third, (&c.) To A. B. our debtor, greeting:
We command and strictly enjoin you, that all excuses apart, immediately after the receipt of this our writ, you pay or cause to be paid to *C. D.* or the bearer hereof, the sum of — *l.* of lawful money of *Great Britain*, allowed to the said *C. D.* by our court of Exchequer at *Westminster*, for that *A. B.* our debtor, to whom you the said *E. F.* have demised certain tenements with the appurtenances, in the county of —, hath not proceeded to trial at the last assizes for the said county of —, in a certain suit then depending in our said court, between the said *A. B.* and the said *C. D.* according to the tenor of a certain rule of our said court, in that behalf made, (or, if on non-suit, "for that *A. B.* our debtor, to whom you the said *E. F.* demised certain tenements with the appurtenances, in the county of —, hath not prosecuted his bill lately exhibited in our said court, against the said *C. D.* in a certain plea of trespass and ejectment of farm, for the said tenements; whereof the said *A. B.* is convicted, as by inspecting the rolls of our said Exchequer appears to us:") And this you are in no wise to omit, under the penalty of 100*l.* which we shall cause to be levied to our use, upon your goods and chattels, lands and tenements, if you neglect this our present command. Witness Sir *Alexander Thomson* knight, (&c.)

Rose.

(§ 98.)
The like, for
not confessing
lease entry and
custer.

George the Third, (&c.) To C. D. greeting: We command and strictly enjoin you, that all excuses apart, immediately after the receipt of this our writ, you pay or cause to be paid to *E. F.* lessor of *A. B.* our debtor, or the bearer hereof, the sum of — *l.* of lawful, (&c.) allowed to the said *A. B.* by our court of Exchequer at *Westminster*, for his costs

costs and charges, according to the tenor of a certain rule of our said court, in that behalf made. And this you are in no wise to omit, &c. (as in the last.)

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George the Third, (&c.) To the sheriff of — greeting: (§ 1)
Whereas *John Doe*, lately in our court before us at *Westminster*, by our writ, and by the judgment of the same court, recovered against *C D* (or, if against the casual ejector, “*Richard Roe*,”) his term then and yet to come of and in one messuage, (&c.) with the appurtenances, in the parish of — in your county, which *A B*, on the — day of — in the — year of our reign, had demised to the said *John Doe*, to have and to hold the same to the said *John Doe* and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended, by virtue of which said demise, the said *John Doe* entered into the tenement with the said appurtenances, and was thereof possessed, until the said *C D* (or “*Richard Roe*,”) afterwards, to wit, on the — day of — in the — year aforesaid, with force and arms, &c. entered into the tenements aforesaid with the appurtenances, which the said *A B* had demised to the said *John Doe*, in manner and for the term aforesaid, which is now expired, and ejected the said *John Doe* from his said term, and also — for the damage which the said *John Doe* had sustained, as well on occasions of the trespass and ejectment aforesaid, as for his costs and charges by him about his suit in that behalf expended, whereof the said *C D* (or “*Richard Roe*,”) is convicted, as appears to us of record. And now, on the behalf of the said *John Doe*, in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of that judgment still remains to be made to him, wherefore the said *John Doe* hath humbly besought us to provide him a proper remedy in this behalf. And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C D* (or “*Richard Roe*,”) that he be before us, on — wheresoever, (&c.) to shew if he has or knows of any thing to say for himself, (or, if against the casual ejector, the sheriff should be commanded to “make known

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known to the said *Richard Roe*, and also to — and — the tenants of the tenements aforesaid, that they be before us, on — wheresoever, (&c.) to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves or himself,) why the said *John Doe* ought not to have the possession of his said term yet to come of and in the tenements aforesaid, and also execution of the damages costs and charges aforesaid, according to the force form and effect of the said recovery, if it shall seem expedient for him so to do; and further to do and receive what our said court before us shall consider of him (or, them) in this behalf: And have there the names of those by whom you shall so make known to him (or, them,) and this writ. Witness *Edward Lord Ellenborough*, (&c.)

(§ 100.)
The like, in the
Exchequer.

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* our debtor, in our court before the barons of our Exchequer at *Westminster*, heretofore, to wit, in — term last past, (or “in the — — year of our reign,”) by the consideration and judgment of the same court, recovered, &c. (as in the last, to “whereof the said *C. D.* is convicted,” and then as follows :) as by inspecting the rolls of our said Exchequer appears to us: Yet execution of the said judgment still remains to be made, as by the information of the said *A. B.* in our said court, we have been given to understand. And we being willing that those things which in our said court are rightly done, should have due execution, command you, that by honest and lawful men of your bailiwick, you make known, &c. (as in the last, to the words “expedient for him so to do,”) making the writ returnable “before the barons of our said Exchequer at *Westminster*,” on a general return-day :) And in what manner you shall execute this our writ, make appear to the barons of our said Exchequer at *Westminster*, at the day aforesaid; and have you there the names of those by whom you shall so make known to him, and this writ. Witness Sir *Alexander Thomson* knight, (&c.)

(§ 101.)

Declaration in
scire facias a-
gainst terre-
nants, &c. P.
of a term sub-
sequent to the
return of the

In the Common Pleas.

— term, — *Geo. III.*

— (to wit.) It was commanded to the sheriff of —, that whereas *John Doe* heretofore, that is to say, in — term,

in

in the — year of the reign of the lord the now king, before Sir *Vicary Gibbs* knight and his companions, then his majesty's justices of the bench at *Westminster*, by the consideration of the same court, recovered against *C. D.* his term then unexpired of and in — messuages with the appurtenances, situate, (&c.) whereof the said *C. D.* was convicted, as by the record and proceedings thereof, remaining in his said majesty's court, before his justices at *Westminster* aforesaid, manifestly appeared; yet execution of the said judgment remained to be made, as on the information of the said *John Doe* the said lord the king had been given to understand; and because, &c. therefore the said sheriff should, by good and lawful men of his bailiwick, make known to the said *C. D.*, and also to the tenants of all and singular the said tenements with the appurtenances, that they should be before his majesty's justices at *Westminster*, in —, to shew if any thing they, or any or either of them, had or knew to say for themselves or himself, why the said *John Doe* ought not to have execution against them, for his said term then unexpired of and in the said tenements with the appurtenances, according to the form and effect of the said recovery, if, &c. At which day, comes here the said *John Doe*, by *E. F.* his attorney, and offers himself on the fourth day against the said *C. D.* and the tenants of all and singular the said tenements with the appurtenances; and the sheriff, to wit, — sheriff of — aforesaid, returns that by virtue of the said writ to him directed, he, by *I. K.* (&c.) good and lawful men of his bailiwick, hath given notice to the said *C. D.* and also to *I. M.* (&c.) tenants of the said tenements with the appurtenances, to be and appear at the time and place in the said writ contained, to shew in manner as therein is mentioned, and as the said sheriff is commanded: And the said *C. D. I. M.* (&c.) on the same day being demanded, also come by *G. H.* their attorney; and hereupon a day is given to the parties aforesaid, and with their assent, here until — in this same term, that is to say, for the said *John Doe* to declare upon the said writ of *scire facias*, &c.: At which last-mentioned day, comes here the said *John Doe* by his attorney aforesaid, and offers himself on the fourth day against the said *C. D. I. M.* (&c.); and the said *C. D. I. M.* (&c.) at the same day being demanded, also come by their attorney aforesaid; but

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writ, with a suggestion of the death of the defendant plus darrer n'ost' tuncanec.

the

CHAP. the said *C. D.* although then demanded likewise, comes not :
 XLIII. And hereupon the said *John Doe* gives the justices here to understand and be informed, that since the last continuance of the plea aforesaid, and before this day, to wit, on the — day of — in the year of our Lord 18 —, the said *G. D.* died, to wit, at — in the said county of —; which the said *L. M.* (yc) do not deny, but admit the same to be true; therefore let there be no further proceedings upon the said writ, against the said *C. D.*: And upon this the said *John Doe* prays that execution may be adjudged to him against the said *L. M.* (&c.) for his said term yet unexpired of and in the said tenements with the appurtenances, according to the form and effect of the said recovery, &c.

THE END.

I N D E X.

ABATEMENT,

plea of misnomer in defendant's christen name. 261.

affidavit of truth of. *ib.*

replication, that defendant is called and known as well by one name, as the other. *ib.*

judgments;

for plaintiff:

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on verdict, in county court 663.

for defendant:

of *cassum blla, vel breve* 262.

entry of *cassum blla*, on writ of error. 595.

ACCEDAS AD CURIAM,

writ of; 682.

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ACCOUNT,

beginning of declaration in, by original. 137.

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AC ETIAM,

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in *assumpsit*: 70, 72.

at suit of executors. 72.

administrators. 73.

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recognizance. *ib.*

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